

ENFORCEMENT OF NARCOTICS, FIREARMS,
AND MONEY LAUNDERING LAWS

89622531

OVERSIGHT HEARINGS
BEFORE THE
SUBCOMMITTEE ON CRIME
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDREDTH CONGRESS
SECOND SESSION

JULY 28, SEPTEMBER 23, 29, AND OCTOBER 5, 1988

Serial No. 138

U.S. GOVT DEPOSITORY

AUG - 2 1989



Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

98-627

06 B5 225

18GD
4. J 89/1
: 100/138

COMMITTEE ON THE JUDICIARY

PETER W. RODINO, Jr., New Jersey, *Chairman*

JACK BROOKS, Texas
ROBERT W. KASTENMEIER, Wisconsin
DON EDWARDS, California
JOHN CONYERS, Jr., Michigan
ROMANO L. MAZZOLI, Kentucky
WILLIAM J. HUGHES, New Jersey
MIKE SYNAR, Oklahoma
PATRICIA SCHROEDER, Colorado
DAN GLICKMAN, Kansas
BARNEY FRANK, Massachusetts
GEO. W. CROCKETT, Jr., Michigan
CHARLES E. SCHUMER, New York
BRUCE A. MORRISON, Connecticut
EDWARD F. FEIGHAN, Ohio
LAWRENCE J. SMITH, Florida
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
HARLEY O. STAGGERS, Jr., West Virginia
JOHN BRYANT, Texas
BENJAMIN L. CARDIN, Maryland

HAMILTON FISH, Jr., New York
CARLOS J. MOORHEAD, California
HENRY J. HYDE, Illinois
DAN LUNGREN, California
F. JAMES SENSENBRENNER, Jr.,
Wisconsin
BILL MCCOLLUM, Florida
GEORGE W. GEKAS, Pennsylvania
MICHAEL DeWINE, Ohio
WILLIAM E. DANNEMEYER, California
PATRICK L. SWINDALL, Georgia
HOWARD COBLE, North Carolina
D. FRENCH SLAUGHTER, Jr., Virginia
LAMAR S. SMITH, Texas

M. ELAINE MIELKE, *General Counsel*
ARTHUR P. ENDRES, Jr., *Staff Director*
ALAN F. COFFEY, Jr., *Associate Counsel*

SUBCOMMITTEE ON CRIME

WILLIAM J. HUGHES, New Jersey, *Chairman*

ROMANO L. MAZZOLI, Kentucky
GEO. W. CROCKETT, Jr., Michigan
EDWARD F. FEIGHAN, Ohio
LAWRENCE J. SMITH, Florida
HARLEY O. STAGGERS, Jr., West Virginia
BILL MCCOLLUM, Florida
LAMAR S. SMITH, Texas
GEORGE W. GEKAS, Pennsylvania
DAN LUNGREN, California

HAYDEN GREGORY, *Counsel*
ERIC E. STERLING, *Assistant Counsel*
PAUL McNULTY, *Associate Counsel*
LINDA C. HALL, *Editor*

CONTENTS

HEARINGS DATES

July 28, 1988	Page 1
September 23, 1988	91
September 29, 1988	156
October 5, 1988	217

WITNESSES

Caffrey, Ron, Chief of the Cocaine Desk in 1984, Drug Enforcement Administration, U.S. Department of Justice	56
Hambrick, Marion, Special Agent in Charge of the Drug Enforcement Administration, Houston, TX	159
Jacobsen, Ernst, Drug Enforcement Administration Field Investigator for the Barry Seal case, accompanied by Richard Friedland, counsel	12
Lawn, John C., Administrator, Drug Enforcement Administration, U.S. Department of Justice, accompanied by David L. Westrate, Assistant Administrator, Drug Enforcement Administration	220
Miley, Ken, Assistant Special Agent in Charge, Drug Enforcement Administration, McAllen, TX	159
Monastero, Frank, former Assistant Administrator, Drug Enforcement Administration, U.S. Department of Justice	56
Palmer, Michael Bernard, confidential informer, Drug Enforcement Administration, U.S. Department of Justice, accompanied by Axel Kleiboemer, counsel	92, 207
Saldana, Luis, Special Agent, Drug Enforcement Administration, McAllen, TX	159
Wagner, John, Special Agent, Drug Enforcement Administration (formerly McAllen, TX), presently Washington, DC	159
Westrate, Dave, Assistant Administrator, Drug Enforcement Administration, U.S. Department of Justice	56

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARINGS

Hambrick, Marion, Special Agent in Charge of the Drug Enforcement Administration, Houston, TX: Prepared statement	160
---	-----

APPENDIXES

Appendix 1.—Chronology of events surrounding Barry Seal's role as drug trafficker and confidential informant for the Drug Enforcement Administration, U.S. Department of Justice	249
Appendix 2.—Declassified pages of Oliver North's notebooks concerning the Barry Seal matter	255
a. Unclear version	255
b. Typed version	271
Appendix 3.—Transcript of cross-examination of Barry Seal, at page 434, U.S. District Court, Southern District of Florida, Miami Division	277
Appendix 4.—Press release from Drug Enforcement Administration, U.S. Department of Justice	290

ENFORCEMENT OF NARCOTICS, FIREARMS, AND MONEY LAUNDERING LAWS

THURSDAY, JULY 28, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to call, at 10:20 a.m., in room 2141, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Mazzoli, Feighan, Smith of Florida, Staggers, McCollum, Smith of Texas, Gekas, and Lungren.

Staff present: Hayden Gregory, counsel, and Paul McNulty, associate counsel.

Mr. HUGHES. The Subcommittee on Crime will come to order.

The Chair received a request to cover this hearing in whole or in part by television and radio broadcast, still photography, or by any other similar methods. In accordance with Committee Rule 5(a), permission will be granted, unless there is objection.

Hearing no objection, such coverage is permitted.

This morning we have screened off our first witness because he is a law enforcement officer, and we do not want him photographed to reveal his face or identity. It is our intent, once we complete his testimony, to clear the room so that we can permit him to depart from this room without being photographed.

I would appreciate your cooperation in ensuring that he is not in fact identified in that fashion.

Welcome to the first public hearing of the Subcommittee on Crime in its oversight investigation of the enforcement of Federal narcotics, money laundering, and firearms laws. That description of our investigation is a more or less formal one.

Informally, a lot of people refer to it as the "contra investigation." It got this name because the investigation began when we learned of convicted drug smugglers who made declarations that they were trafficking in cocaine into the United States in order to raise funds for the Nicaraguan contras. The record of their investigation and trial reveals some evidence in support of these claims.

This was in April, 1986; almost 6 months before Eugene Hasenfus became a household word when he parachuted from a C-123 transport plane which had been shot down by Sandinista forces while on a mission of the Oliver North-Richard Secord so called "enterprise" to air drop military supplies to contra forces. As many of you know, that C-123 was the same plane which convicted drug

smuggler Barry Seal used in the DEA "Sting" operation designed to catch Colombian drug kingpins trafficking through Nicaragua in 1984. That operation is the subject of our hearing today.

Because of severe budget restrictions which prohibited all staff travel in the 99th Congress, we were really not able to begin a full-scale investigation of any of these "contra-related" matters until the 100th Congress. In the past 18 months, we have interviewed hundreds of persons. We have taken formal depositions from more than 25 persons. We have taken testimony in executive session.

From the vast investigative record compiled by the Select Committee on Iran-Contra matters, we have identified tens of thousands of pages of material relevant to our investigation, which have been made available to us. Similarly, we have obtained the cooperation of the DEA, FBI, Treasury Department, U.S. Customs Service, and numerous other Federal, State, local and foreign law enforcement agencies in making available files and personnel relevant to our inquiry.

The subcommittee has met numerous times to approve over 100 subpoenas and writs of habeas corpus to compel testimony and the production of documents. The full Judiciary Committee met to approve applications to a federal district court for orders compelling testimony of persons who refused to cooperate with our investigation on the grounds of self-incrimination.

The U.S. District Court for the District of Columbia has issued six orders immunizing the testimony of such persons and compelling them to testify.

A lot of persons have called to get more information about our hearing today since we announced it a couple weeks ago. Some of them called to give us "atta boy" words of encouragement, only to angrily retract them after learning that the subject of our first contra hearing involves allegations against not the contras, but the other guys—the Sandinistas.

There are a number of reasons why this is the case. Foremost among them is the fact that the subcommittee and its leadership on both sides of the aisle has in the 8 years I have been chairman, approached our obligations, both legislative and oversight, in a non-partisan fashion. We do not begin an oversight inquiry with pre-determined conclusions, and we do not steer our course away from examining significant allegations because of the political implications of the findings we might reach.

There is another major reason why this is not a contra hearing. This is that the more we looked into matters relating to contra drug trafficking the less significant the issue of contra involvement itself became. I am not by this saying that I have concluded that contra leaders have been exonerated or that we will not be holding hearings on their direct involvement. We expect to bring some illumination to the matter of direct contra participation in hearings in September.

My point is that contra involvement in drug trafficking—or the involvement of Sandinistas, or Panama defense forces, or Honduran diplomats—is not the matter of greatest concern to us, even when it is shown to exist.

My greater concern goes to the degree to which the course of criminal justice in our country is altered in such cases because of

interests which are extraneous to our justice system, and often hostile to the interest of justice.

In the course of our investigation, we have discovered many, many instances of persons in or associated with other elements of our government attempting to impede, to divert, and to subvert the criminal justice process and criminal justice resources for their own purposes. In terms of motivation and culpability of those involved, they range from venal attempts to obstruct justice to well-motivated attempts to utilize criminal justice resources for purposes which are themselves worthy but which were pushed in a manner contrary to the interests of justice.

In the latter category I place the conversion of DEA agents and DEA funds to efforts directed by NSC staffer Oliver North to obtain the release of U.S. hostages in the Middle East through bribery. I first learned of this when the Tower Commission report was released, making a very brief and unclear reference to the project.

I have visited dozens of foreign countries where DEA agents are stationed, and I know that the tremendous success that the DEA foreign cooperative program has is due in large part to the fact that DEA agents are seen as being part of a single mission agency, with no other political or intelligence agenda.

The Attorney General testified before our committee on other matters a few days after the Tower Commission report came out. I took that occasion to seek clarification whether DEA was involved in operational matters in the hostage rescue undertaking. The Attorney General assured me they were not. We then began our own inquiry into the matter. The more we probed, the more operational they became.

DEA agents were up to their eyeballs in that operation. To make matters worse, they were allowed to continue in it as free floating agents working under White House direction and with private funding after professional intelligence operatives of our government abandoned that approach as being flawed.

There is much about that very sensitive operation that cannot be responsibly disclosed publicly. However, there are also many aspects which can and should be examined and analyzed in the light of day, to determine where we went astray and to try to prevent repetition. The subcommittee can be expected to give further attention to this matter in the weeks and months ahead.

The incidents we are examining today likewise should be of concern to all Americans who support a system of justice which exists to promote justice and to apprehend and punish criminals, rather than one which is seen as just another resource to be exploited to promote other agendas, including purely political agendas.

The testimony we will hear today convinces me that the latter is precisely how some in our government viewed the criminal justice process. It convinces me that there were some who were willing to compromise, for political purposes, a major drug enforcement initiative, of which had the realistic possibility of apprehending and bringing to American justice one or more of the four most infamous leaders of the so-called Medellin Cartel of Colombia.

That this DEA operation was compromised is, to me, clear. Less clear, but even more disturbing if it is true, is the possibility that the facts of the case are not as they appear; that significant facts

which bear on the case may have been suppressed, including from the law enforcement personnel carrying out the operation; that events may have been not only managed, but manipulated and manufactured for the purpose of exposing those supposed facts for political purposes.

As you will see from the testimony today, the official record of the Managua connection raises as many questions as it answers. Frankly, we don't have all the answers to those questions as of today. We do have some pretty good questions, and we hope that asking the right questions is the first step to getting the right answers.

Let me close with a few words about our plans for completing this investigation. It is my intent to complete it before September or the early part of October.

We may find it necessary or appropriate to revisit the issues we are looking at today. This will depend upon the availability of several key witnesses, witnesses who are missing today for reasons varying from being in hiding to unwillingness to testify voluntarily and/or without court order.

We expected to take testimony from a witness in executive session from the CIA today, and he refused to come forth voluntarily. Our attempts to secure the testimony of these witnesses will necessarily include coordinating with prosecutorial authorities who have interest in the same individuals.

We have begun discussions with independent counsel to see if we can clear some of the people to testify. As I mentioned, we will be looking, soon after we return from the August recess, at allegations of participation of contra officials in drug trafficking. This will include an important look at the relationship between contras known or suspected to be involved in drug trafficking and some of the same elements of the U.S. Government which attract our concern in today's hearing.

As a separate matter, we will be examining instances in which the all-consuming interest of some individuals to our contra support effort distorted our government's response to drug trafficking in Central America, including by elements of government in those countries.

We will be specifically examining a matter which is implicated in today's hearing, but not directly focused on in this hearing. That is the extensive use, often with little supervision or control, of convicted or jeopardized criminals who seek to work off their own liability by bringing in other criminals.

This is never an easy task for law enforcement, and it is made even more difficult when the criminal in question invokes affiliation, real or contrived, to elements of our government with national security responsibilities.

Our first witness today will be Mr. Ernst Jacobsen. Mr. Jacobsen was the DEA agent who supervised confidential informant Barry Seal during the events in question in our hearing today. Welcome, Mr. Jacobsen. I recognize the gentleman from Florida for any opening statement he may want to make.

Mr. McCOLLUM. Thank you, Mr. Chairman, and I do want to make an opening statement this morning.

I think these hearings are a culmination of a considerable amount of research done by staff over a long period of time. The thrust of where we are going and just where we are headed isn't completely clear, though I have listened to what you said this morning, and we discussed it before. I do have a few things that I want to say.

I appreciate, first of all, the courtesy and the spirit of cooperation that you have shown to me and my staff during this preparation period. You promised when we began this investigation nearly 2 years ago to work in a bipartisan manner. You and your staff endured to keep that promise, and for that I am grateful.

I also want to make it clear that I fully support a strong oversight function of this subcommittee. It is important that we carefully review the activities of federal law enforcement agencies to assure the American people that the administration's policies and practices are in full compliance with the law, but thorough oversight, however, must not result in an excessive burden to law enforcement agencies.

Imposing an excessive burden is counterproductive. It expends resources, particularly human resources, necessary to fulfill the criminal law enforcement mandate. I know, Mr. Chairman, since you spent many years in law enforcement that you agree with me on this particular issue.

We should also recognize that the checks and balances of our three separate branches of government are constantly at work. The judicial branch holds law enforcement accountable in the manner far superior to ourselves. If a case has irregularities or problems particularly with an informant, the defense attorney and even the prosecutor scream loud and clear and they are usually heard.

Today's hearing marks the beginning of what I understand will be a series of hearings on the issues of drug trafficking and gun-running in Central America. That sounds broad and wide ranging, and that is what I expect these hearings will be.

Today's hearing focuses on the specific and fascinating case of Barry Seal, and drug trafficking by the Sandinistas. But it is in the larger context that troubles me. These hearings are occurring at an extremely political time. The next three months will probably be more political and partisan in a national sense than any period since 1980.

Already we are in Congress and we in Congress are feeling the increased pressure of viewing everything from a broad political perspective. It is almost impossible to be unaffected by this reality. Now, I am not saying that your intentions are primarily political, Mr. Chairman. I know that you desire to conduct a bipartisan examination of these issues.

Your conduct over the past two years demonstrates this fact and our relationship over the past four years certainly does. You have consistently resisted the temptation of feeding information to the press. Nevertheless, it is impossible to avoid the political and partisan appearance that these hearings may present.

In short, these hearings are the victim of unfortunate timing. Mr. Chairman, we have had a fine bipartisan relationship in the 100th Congress. This produced some excellent legislation. It is disappointing that the political calendar may affect this record.

In his acceptance speech at the convention, Governor Dukakis set the political tone by stating,

It is time to understand that the greatest threat to our national security in this hemisphere is not the Sandinistas, it is the avalanche of drugs that is pouring into this country and poisoning our children. We are going to have real war and not a phony war against drugs and, my friends, we won't be doing business with drug-running Panamanian dictators anymore.

The apparent connection, and I stress the apparent connection, between Governor Dukakis' remarks and these hearings is clear and unfortunate. I must also note at this point that the facts in the Barry Seal case have been extensively examined by this Congress in a hearing held in 1986 by the House Foreign Affairs Committee and chaired by my friend, Mr. Smith of Florida, who is also a member of the Judiciary Committee.

The specific facts of the Barry Seal case were discussed at great length. I must commend Mr. Smith for compiling a fine record of this and other instances when the Sandinistas trafficked in drugs. Furthermore, the Iran-Contra Committee on which I served looked into this matter. The counsel reviewed it also.

Representative Rangel and the Select Committee on Narcotics and Senator Carey of the Foreign Relations Committee in the Senate added their efforts to the list. Consequently I can't resist concluding that this hearing today in its sense of being involved with Barry Seal is duplicative.

Nevertheless, the witnesses today will offer testimony about a case involving drug law enforcement and national security. We will hear testimony intended to show that a significant drug enforcement administration controlled drug trafficking operations involving the Sandinistas and Colombian cartel ended prematurely because of alleged leaks by administration officials.

The conclusion that will most likely be reached by some is that because of the Reagan Administration officials, the DEA's case was blown. Well, the question of whether the DEA's case was blown is an extremely subjective determination.

I suggest that as we go through these hearings that we look at what was gained and what was really lost. What was gained? First of all, 11 people were indicted. Five were convicted, including a major Miami drug operator, Carlos Bustamante. The rest are fugitives.

Top cartel leaders were indicted. Information on Carlos Lehder was acquired which contributed to the eventually successful effort at having him arrested and convicted. The sinister intentions of the Sandinistas were exposed and an enormous cocaine manufacturing operation in Nicaragua was derailed before it could be established. Sandinista Interior Minister Borge was discredited thereby keeping more hard-line ideology out of the controlling power in Nicaragua.

We have avoided the potential disaster that would have resulted when DEA agents traveled with Barry Seal into Nicaragua and were mistakenly shot down as Seal once was or grabbed a Nicaraguan citizen for prosecution in the U.S. What was lost?

After carefully reviewing the facts, I suspect that the only thing lost was the very remote opportunity to arrest a top cartel member. As the testimony today will show, this case has serious

difficulties. For it had to have continued on, DEA had to control or take out every load of cocaine coming into the United States was necessary. DEA also had to send extremely large numbers of cash to Nicaragua.

They already sent \$2 million in cash to Nicaragua and a large load of merchandise. Barry Seal was a tough informant to handle. And he would have become increasingly more difficult. In short, DEA had a monster on its hands. Assistant U.S. Attorney Richard Gregory, the lead Department of Justice lawyer in this case, recognized he had advised DEA not to send Seal back into Nicaragua.

Therefore, to say that DEA's case was blown depends entirely on the perspective you bring to the facts. It may be that the press disclosures were perfectly timed and I want to make it clear I strongly commend DEA for an excellent operation.

Many people worked very hard in this case and the DEA should be very proud. You did a fine job in this case. Finally, Mr. Chairman, I must observe that the tension between national security interest and law enforcement is not a new and is in fact a quite frequent problem. It is not a Republican problem. It is a problem that affected democratic administrations as well.

I would point just to this morning's Washington Times Newspapers for that fact. Headline on the commentary section says, how canal drug ties are hidden, Carter wanted his treaty. I don't know the value of that, but it is still a problem and a bipartisan problem that we all suffer from. The American people overwhelmingly elected President Reagan to make the difficult judgment calls that we will be second-guessing today and probably throughout all of these hearings.

In the end, I hope that we will have grown through this process to appreciate the complexity of these problems and think carefully before making judgments with respect to those judgment calls that were made by the various agencies and by those in the administration. Thank you, Mr. Chairman.

Mr. HUGHES. Any other members seeking recognition?

Mr. SMITH of Florida. I wanted to commend you for holding these hearings in the waning hours, even of this session of the Congress, since for the last year and a half approximately, the staff and private investigators hired by this committee have been compiling the relevant information, the relevant evidence, and a record of what transpired in all of these dealings with reference to the totality of facts regarding involvement of the Sandinistas and/or the contras in drug trafficking and what that meant in terms of relevance to trafficking here in the United States by individuals and the impact on law enforcement and on other political matters in this country and there is no doubt there was some.

I think it is appropriate and I think it is right to hold these hearings and to let that record be presented before the American people, not only for our determination, but for their determination as well. Secondly, I might say that I am just a bit disappointed at the statement made by my friend and colleague from Florida, Mr. McCollum.

If anything has been shown to be fairly true about your stewardship of this committee over the last eight years, six of which I have participated in as a member of this committee, it is that there has

been a very strong bipartisan approach to the problems that we have attempted to tackle, and that you have never at any time shown that you were in any way attempting to use what this committee's jurisdiction is for the purpose of political gain for yourself or anyone else.

And, frankly, while the timing may be unfortunate in some people's minds, I don't think there is ever a good time to reveal this information. If you look at it solely from the political point of view, somebody may have some axe to grind or some deep dark secret that may be called into question when the light of day is shown on it.

It seems to me that is our role here, not to protect anybody, but to get at the truth, no matter what time it is, whether it is in January or in an off year or in August or September of an election year. I commend you for wanting to do that notwithstanding that the chips may fall where even some of us may not want them to. That is not the point.

The point is the truth should get out. In reference to the hearing which I had held in 1986, in fact a series of hearings, as the Chairman of the International Narcotics House Task Force and House Foreign Affairs Committee and I have a copy of one of the transcripts referencing Sandinista drug trafficking.

We didn't really examine the Barry Seal case in full. It was a part of the totality of the Sandinista involvement and the alleged involvement of Cuban Sandinista ties for drug trafficking and we certainly never examined it from the perspective of law enforcement in the United States and their role in any possible political situation that may have arisen from what was being carried out in terms of the White House, Oliver North and all the other things that were going on at that moment, the attempt to raise money, possibly by selling drugs.

That was not our role at that time back in 1986 because, frankly, a lot of that hadn't come to light. So while we did look at the case, frankly, it was on a very perfunctory basis as a small part of the whole picture which we are examining and I don't think it relevant to, at this point, say that since it was examined there, if that is the inference that was being made, that it ought not be examined here. I think that is inappropriate.

Finally, I think that this is an issue that needs to be examined significantly because of, as you indicate in your opening statement, the fact that there is a terrible problem with drugs in the United States, and there are governments involved. Just two days ago five people were convicted in Miami of trafficking in cocaine.

Much of the testimony centered around their capability to use Cuba as a place where they could transship, stop and get help. As a matter of fact, my task force is again, in September, next month, or the middle of September when we come back from the District work period, we will be holding hearings on the Cuban government's involvement in drug trafficking.

Again, with no particular emphasis on the time, but rather because it is relevant at that moment and the facts have come to light. Or we are going to dig for further facts. I commend you for holding this. It is a problem we must examine in all its aspects.

Drugs not only affect young people and adults in this country physically, but it affects the whole fabric of our society, including unfortunately the political and law enforcement fabrics. We are absolutely duty bound to examine all of those in every relevant facet and I commend you for doing so.

Mr. HUGHES. Thank you. Any other Members?

The gentleman from California.

Mr. LUNGREN. Mr. Chairman, it is a pleasure to return to this subcommittee.

Mr. HUGHES. It is a pleasure to have the gentleman back before the subcommittee.

Mr. LUNGREN. At a time when dealing with such a non-controversial subject. I want to assure everyone I did not time my return for that purpose. I might just say that I think that what everyone has said has been instructive.

I would suggest as a Member of the Permanent Select Committee on Intelligence that some of the things we apparently are going to go into are rather sensitive and we must be aware of that at all times, and at times there may be inquiries made of the Chair with respect to the manner in which we are to proceed in order for us to ask questions of certain witnesses.

I hope that we can be accommodated in that fashion. My own feeling is, if we are going to go forward in the manner the Chairman has suggested, we may have to take some testimony or I would suggest we consider taking some testimony in executive session because I think it would be unfair at times to present half a public record, because I think there are some conclusions that are erroneous ones which may be reached if only half of the information can come out with respect to certain concerns or certain agencies or certain people involved or certain decisions that were made.

Having said that, I must say that I hope people suspend judgment and do not reach conclusions before the evidence has been presented. I am heartened, obviously, from a number of standpoints, by the Chairman's comments that the contra drug connection seems to not be as strong as some had suggested earlier on, and that even though that may be the case, we are going to review this whole situation.

I would just like to underscore that, that this ought not to be seen as merely a repetition of allegations that were made in the past to somehow undercut the credibility of the contras, and that this, in fact, is an overall look at the operations of the DEA, other agencies, within the context of our overall drug enforcement effort, but also in the context of other considerations that any administration has to be involved with.

Foreign policy considerations are part of a President's portfolio, and it has always been recognized in the Constitution that we must have one executive who must make the decisions at times when you have varying subjects that must be resolved in some fashion. So I think we ought to keep that in mind.

As much as we would all like to be President or as much as we would all like to be Secretary of State, there is but one President, and that person is elected to make decisions where often times they are difficult decisions, not easy ones, where he has to resolve different factors, each of which is important, and each of which, if

looked at in a vacuum, would seem to overwhelm the other, but the President doesn't have the choice of doing that.

The President must make the delicate decision of balancing that. So, Mr. Chairman, as we embark on these hearings, I certainly look forward to ferreting out facts. I also would say that this is a political time. We all must recognize it whether we like to or not, and that we should not, it seems to me, in our effort to make sure that the DEA is an effective law enforcement agency, do this here with respect to allegations of political intrigue that might unduly affect the manner in which the DEA may operate in the future.

So, I guess what I am saying is we have a burden of responsibility here that is probably higher than normal times, and I guess that is why we are elected and why we get paid to do it.

Mr. HUGHES. I thank the gentleman. I hope that we—briefly the gentleman from Pennsylvania.

Mr. GEKAS. I thank the Chair.

I just want to take up a little bit of what the theme was struck by the gentleman from California. That is that our government has to deal with characters all over the world in the interest of national security and international security.

We must recognize that fact as we proceed through these hearings. Here we have the whole complex of Central America and our relationship with each one of those nations takes on a different hue, all of them compel our government from time to time to deal with unsavory characters.

We have to deal with the Mexican government even though we know they many times wink at or are lax in the drug enforcement procedures that have been agreed upon between the United States and Mexico, to give one example, with Noriega and his feet on the Panama Canal, we have to deal with that unsavory character as part of our national policy. We have to deal with the Sandinistas in control in Managua and the contras fighting them.

Those complexities draw to the final conclusion again that in this dangerous world our country, and these hearings will definitely indicate that, it seems to me, we have to deal with these bad characters in order to effectuate our own foreign policy. As we go through these and we try to sort out the good guys with the bad guys, we have to recognize that in the real world, we have to deal with both as a government and many times dealing with the bad guys is an absolute necessity, so that we can get to the ultimate good.

I thank the Chair.

Mr. HUGHES. I thank the gentleman.

I just wanted to say in response to the gentleman from California, we intend to take much of the testimony in executive session that we have to take. We have separated out testimony that we can take publicly that should be aired publicly and that we will hear today.

On the testimony we have slated for today was to be taken in executive session and we have endeavored to separate out that which is sensitive, classified information from that which can be disclosed publicly.

I also say I regret the timing, but my colleague knows, from Florida, that we have tried for the better part of a year and a half to

get resources to do the job. Now, the gentleman's minority counsel worked at every stage of the way with our investigators and the gentleman from Florida knows that.

Frankly, I don't care where the chips fall. We are just going to have to look at the facts, and those of you on the committee that have not been as close to it as the investigators or those of us who work with the investigation on a day-to-day basis, should wait until you hear all the facts and then judge.

Don't rush to judgment. Don't circle the wagons yet. Wait until you get the facts, and then judge as to whether or not we should move ahead with the hearing and disclose some of the things that you are going to hear for the first time today publicly. Pursuant to Clause 1 of Rule 11 and Clause 1 of Rule 10 of the Rules of the House of Representatives, this hearing of the Subcommittee on Crime of the Committee on the Judiciary is for the purpose of investigating enforcement of federal laws concerning narcotics, money laundering and illegal firearms.

Let the record indicate that pursuant to Clause 2 of Rule 11 of the House of Representatives, the copy of the Rules of the Committee of the Judiciary and a copy of Clause 2 of the rule, Rule 11 of the Rules of the House of Representatives, are made available to the witness as located on the witness table.

Mr. Jacobsen, do you understand that you have a right to counsel to represent you in the course of this morning's presentation?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Are you accompanied by counsel?

Mr. JACOBSEN. Yes, I am.

Mr. HUGHES. Will counsel identify himself?

Mr. FRIEDLAND. Richard Friedland, counsel to the witness.

Mr. HUGHES. I am going to ask you now to swear to tell the truth to the Subcommittee on Crime, and before you stand, I would ask all the press not to direct the cameras to the witness. I don't want any photographs taken. I want the lights turned out if we could, the overhead lights for the cameras. Can we cut them?

Raise your right hand, place your left hand on the Bible. Give your full name.

[The witness is sworn.]

Mr. HUGHES. You may remain seated. I have asked our counsel, Hayden Gregory, to be assisted by Paul McNulty, to at least lay the groundwork for Members so that we don't have continuous interruptions and so we have some continuity laid out so we can get the facts out and then we will go to the 5-minute rule.

Mr. McCOLLUM. Mr. Chairman, I don't disagree with the concept. The only things my colleagues questioned and I wanted to put clarification on the record, is in light of the Iran-Contra experience, they are concerned with the length of how long counsel will be involved. I suppose that will be something you will monitor or control.

Mr. HUGHES. I want to get the facts out first. It shouldn't take us long to do that. And counsel is very conversant with the chronology, both counsel, and we will try to lay out the chronology of events and we will go to the 5-minute rule which I will adhere to very strictly.

Mr. McCOLLUM. I have no problem with that generally at present. Just a concern that didn't get adhered to as well in Iran/Contra as the good intentions, which I gather you are going to have a much tighter fist on that gavel than sometimes was over there. I appreciate it. Thank you, Mr. Chairman.

Mr. HUGHES. Mr. Gregory, why don't you begin examining the witness.

Mr. GREGORY. Thank you, Mr. Chairman.

Mr. Jacobsen, in 1984, where were you assigned?

TESTIMONY OF ERNST JACOBSEN, DRUG ENFORCEMENT ADMINISTRATION FIELD INVESTIGATOR FOR THE BARRY SEAL CASE, ACCOMPANIED BY RICHARD FRIEDLAND, COUNSEL

Mr. JACOBSEN. I was assigned as a special agent in the Miami field division, Miami, Florida.

Mr. GREGORY. In that capacity, did you come to have dealings with one Adler Berriman Seal?

Mr. JACOBSEN. Yes, I did.

Mr. GREGORY. Tell me the circumstances of how that came about?

Mr. JACOBSEN. Mr. Seal flew to Washington, D.C. on his own behalf, met with some DEA officials in Washington, and expressed a desire to cooperate with the Drug Enforcement Administration. After he was debriefed in Washington, a phone call was made to group six in the Miami field division, and my former boss, Bob Joura, received the call. We were informed that Barry Seal was in D.C., wanted to cooperate and I was asked if I wanted to work with Mr. Seal. And I said I would.

Arrangements were then made for Mr. Seal to come to Miami, Florida, or myself and my boss, Bob Joura, could meet with Mr. Seal and debrief him.

Mr. GREGORY. Was he under conviction at that time?

Mr. JACOBSEN. Yes, sir. Mr. Seal was convicted on a methaqualone charge in Ft. Lauderdale in February of 1984, I believe.

Mr. GREGORY. Did he also have other charges pending in that district?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Did he attempt, to your knowledge, to plea bargain in the district before he came to Washington?

Mr. JACOBSEN. Yes, he did. He tried to talk with prosecutors in Ft. Lauderdale and the DEA agent that was a case agent. He expressed a desire on several occasions to cooperate. Each time it was denied.

Mr. GREGORY. Do you know what the basis of denial was?

Mr. JACOBSEN. I think it was more of a personality thing than a professional thing. I think that there were some personal feelings between the case agent and Mr. Seal during the investigation, and when Mr. Seal expressed a desire to cooperate——

Mr. GREGORY. Did you have occasion to talk to the case agent on the other cases?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Or the AUSA?

Mr. JACOBSEN. Yes, I did.

Mr. GREGORY. Based on that discussion then, on debriefing of Mr. Seal, is it your determination that he had new information at the time he came to Washington from what he tried to offer to the district?

Mr. JACOBSEN. I don't think they ever got into what Mr. Seal had to offer when he originally tried to cooperate. It wasn't until he came to Miami and that myself and Bob Joura debriefed him that we finally realized what information he did have.

Mr. GREGORY. In other words, he didn't really get his foot in the door on the first round?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Did you receive any instructions from Washington, either from DEA or from the Vice-President's Task Force or elsewhere regarding the handling of Mr. Seal?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Just take a look at him. If you want to work with him?

Mr. JACOBSEN. We were to debrief him, see what he had to offer and evaluate it.

Mr. GREGORY. Without getting into too much detail, when you debriefed him what did he have?

Mr. JACOBSEN. Mr. Seal said that he could deliver approximately 3,000 kilos of cocaine and pick it up from the Ochoa organization of Bogota, Colombia.

Mr. GREGORY. It is not uncommon for convicted felons to make such claims, is it?

Mr. JACOBSEN. In Miami, no, it is not uncommon. It happens quite frequently.

Mr. GREGORY. I take it you began to check this out to determine if there was a possibility he could deliver?

Mr. JACOBSEN. Within the next 3 to 4 weeks we began to actively look into the thing and we found out that Mr. Seal was, in fact, stating the truth.

Mr. GREGORY. He had the connections?

Mr. JACOBSEN. Yes, he did.

Mr. GREGORY. Did he have the resources and the capacity to deliver?

Mr. JACOBSEN. Yes, he did.

Mr. GREGORY. With whom was he working? You mentioned Ochoa. Did he have other confederates he was working with?

Mr. JACOBSEN. During Mr. Seal's smuggling, which probably took—he was actively smuggling cocaine for a period of approximately 2 years—he actively smuggled cocaine for Jorge Ochoa, Carlos Escobar, Carlos Slater, Gonzolo, Rodriguez-Gacha, and several other of the major cocaine cartel figures in Colombia.

Mr. GREGORY. He testified under oath in the Turks and Caicos trial he made at least 50 trips totaling 10,000 kilos during his cocaine trafficking days. Is that a credible figure to you?

Mr. JACOBSEN. I know Mr. Seal made approximately 50 trips of smuggling between 300 and 350 kilos of cocaine per trip.

Mr. GREGORY. Had he begun to develop this operation at the time you first debriefed him?

Mr. JACOBSEN. Mr. Seal had been out of the cocaine business for approximately four months during the time that he was at the

trial. He had the phone numbers and the connections to get back into it at any time. Once I debrief him, Mr. Seal reestablished contact with the cocaine cartel.

Mr. GREGORY. Do you know the points of contact of the individuals? Did he contact persons directly in Colombia? Did they have representatives in the United States?

Mr. JACOBSEN. The cocaine cartel has representatives in the United States. Mr. Seal contacted a guy by the name of Carlos Bustamante and Felix Dixon Bates, who represented the Jorge Ochoa organization.

Mr. GREGORY. Briefly, what function did each of these perform for the organization?

Mr. JACOBSEN. Felix Dixon Bates was the pilot who formerly had flown with Fabio Ochoa, Jorge Ochoa's father. He had been a pilot that flew a lot of animals into the exotic farm that the Ochoas have in Colombia. He flew the father all around Colombia for years. After a certain time, Bates asked Seal to come to Miami to assist in their operations.

Carlos Bustamante was sent from Colombia to Miami as the major distributor in the United States for Jorge Ochoa.

Mr. GREGORY. How long had Bustamante been in that role?

Mr. JACOBSEN. As far as I was able to determine during my investigation, Mr. Bustamante had been in that capacity for approximately eight months to maybe ten months.

Mr. GREGORY. Was this 3,000 kilos—I think you said it was—that he was to deliver?

Mr. JACOBSEN. Yes sir.

Mr. GREGORY. Was that to be a delivery directly from Colombia into the United States, or was there mention at that point of a transshipment through other countries?

Mr. JACOBSEN. It was a shipment directly from Colombia into the United States.

Mr. GREGORY. Did Mr. Seal have available to him—I take it we are talking air transportation that could handle that?

Mr. JACOBSEN. Yes sir.

Mr. GREGORY. What did he have?

Mr. JACOBSEN. Mr. Seal had a Lockheed Star, which is an older aircraft, twin engine aircraft, that could carry approximately 6,000 pounds, maybe 7,000.

Mr. GREGORY. So it has got a payload and a range that it could fly perhaps even nonstop from Colombia to the Southeastern United States?

Mr. JACOBSEN. Yes sir.

Mr. GREGORY. Do you recall—so at that time it was to be a direct flight into the United States. No other countries involved, correct?

Mr. JACOBSEN. That is correct.

Mr. JACOBSEN. Did Seal and others make planning trips under your supervision to South or Central America?

Mr. JACOBSEN. Yes, they did.

Mr. GREGORY. Do you recall what the first occasion of that was? You may not remember the exact date, but in terms of the overall development of the operation, when that took place?

Mr. JACOBSEN. It was sometime probably in April or May of 1984. Mr. Seal—

Mr. GREGORY. The records, I know they aren't available to you now, but from DEA, indicate there was a trip on the 7th of April. Does that sound about right?

Mr. JACOBSEN. Okay, yes. Mr. Seal—I believe Mr. Bates—now, Mr. Bates also acted as an interpreter for Mr. Seal. Mr. Seal spoke very little Spanish, so Seal and Bates went to Colombia and met with members of the cartel about the 3,000 kilos. They wanted to talk to him, wanted to know when he would be there. They made arrangements for strips in Colombia and tried to get all the cocaine in one place so it could be picked up.

Mr. GREGORY. So things are moving along. They are gathering the product and the trip is imminent, is that correct?

Mr. JACOBSEN. Yes sir.

Mr. GREGORY. When, to your knowledge, to your recollection, was the first reference made in these discussions to a Nicaraguan connection?

Mr. JACOBSEN. Mr. Seal went to Colombia. I don't know if it was this trip or the second trip. Mr. Seal went to Colombia as part of this operation and met with Pablo Escobar. It was during this time that Mr. Seal discussed with Pablo Escobar fueling stops. You have to understand that Mr. Seal was using small airplanes, twin engine airplanes, which required a big rubber fuel tank inside the airplane, usually a 300 to 350 gallon bladder, they called it, inside the airplane. So they were looking for a refueling stop so they wouldn't have to bladder the airplanes so they could carry more cocaine out. So while Mr. Seal was there, he and Pablo Escobar discussed the—Pablo Escobar had a 5,000 foot paved strip in Nicaragua that he requested Mr. Seal go and see.

Mr. Seal came back to Miami. I debriefed him and he told me about this offer. I wrote it in a report and that was the last of it at that time.

Mr. GREGORY. Now, did he indicate if this was a strip that was government controlled or was it private?

Mr. JACOBSEN. Not at that time. He just said it was a 5,000 foot paved strip in Nicaragua.

Mr. GREGORY. Was that a recent acquisition?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Had it been used, to your knowledge?

Mr. JACOBSEN. No. Pablo Escobar wanted Mr. Seal to go to Nicaragua to examine the strip and see if it could be utilized in their smuggling operations.

Mr. GREGORY. Now, did this contemplate using the same 404s or other twin engine planes, and refueling there, or how does this fit in with the operating that is ongoing, if at all?

Mr. JACOBSEN. They were going to use this as a refueling strip for 404s. Mr. Seal mainly used Piper Navajos that were Panther conversions. He used those and probably the Howard 350. Anything small and fast is what Mr. Seal utilized.

Mr. GREGORY. Do you recall an occasion on which Mr. Seal traveled with a group of Colombians to Mena, Arkansas, to examine a plane that might be used for this operation?

Mr. JACOBSEN. Yes sir. After Mr. Seal returned from Colombia the cocaine cartel had instructed some of the representatives in Miami to meet with Mr. Seal, go to Mena, Arkansas and observe

the aircraft that was going to be utilized in the smuggling operation. Mr. Seal met with three or four of the Colombians in Miami and then he took them to Mena, Arkansas in a private aircraft.

Mr. GREGORY. You mentioned this report that you wrote about what we call the Nicaraguan connection. Where was that sent?

Mr. JACOBSEN. My report?

Mr. GREGORY. Did those go to Washington?

Mr. JACOBSEN. It goes to Washington, yes sir.

Mr. GREGORY. Did you get any response or any reaction to that?

Mr. JACOBSEN. Not immediately. It was probably several weeks after I got a response.

Mr. GREGORY. What was that?

Mr. JACOBSEN. I was called down to the front office, taken into one of the assistant agents in charge office where I met with some CIA officials.

Mr. GREGORY. What was their interest?

Mr. JACOBSEN. They were interested in the strip in Nicaragua and they wanted any and all information that we might have on its location and anything that we had on it.

Mr. GREGORY. Did they have any information to offer you?

Mr. JACOBSEN. No.

Mr. GREGORY. Did they at any time offer any information that was useful to you in your law enforcement operation?

Mr. JACOBSEN. No sir, not at that time. We were giving them all the information.

Mr. GREGORY. Were they interested in this, from your understanding, for their own intelligence purposes or were they interested in supporting your law enforcement effort?

Mr. JACOBSEN. Initially they were looking for intelligence, you know, on the location of the strip. Later on, they assisted us in our enforcement activities.

Mr. GREGORY. We will get into that in a moment of course. Did you have frequent contacts with the CIA representatives as this operation developed?

Mr. JACOBSEN. Yes sir, almost daily.

Mr. GREGORY. Describe the nature of those. What were the purposes of them?

Mr. JACOBSEN. They wanted any and all information that they could get on Nicaragua and the drug trafficking. They called me probably daily just to get an update on what information that we were getting from Mr. Seal.

Mr. GREGORY. This seems to unfold somewhat episodically, so I take it most of the time you probably didn't have anything—nothing new today—is that right?

Mr. JACOBSEN. That is correct.

Mr. GREGORY. But the calls were frequent enough that it is obvious they were monitoring or were interested in everything that was happening.

Mr. JACOBSEN. Absolutely.

Mr. GREGORY. Do you recall an occasion on which Mr. Seal and others—occasion or occasions traveled to Panama in connection with planning the operation?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. What was the occasion, if you recall?

Mr. JACOBSEN. Mr. Seal traveled to Panama to meet with representatives of the cocaine cartel. After the assassination of the prime minister in Colombia, after the assassination our 3,000 kilo load had to be delayed, so all the cartel members moved their operations to Panama City, Panama.

So Mr. Seal had to go to Panama to meet with them.

Mr. GREGORY. Didn't he make an earlier trip? Again, records available to us indicate that on the 22nd of April, there was a trip involving Seal, Bates and one Emille Camp into Panama which resulted in a meeting with Ochoa, Escobar, and Luis Angel. Does that ring a bell?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Do you recall what the purpose of that trip was?

Mr. JACOBSEN. They went down there to discuss the trip plus Luis Angel was looking for a boat that he could load with 3,000 kilos—3,000 to 4,000 kilos of cocaine to smuggle into the west, off the San Diego coast. Mr. Seal negotiated with him for the Lauren Lee. It was a 90-foot boat that Mr. Seal owned.

Mr. GREGORY. What is the nature of the transaction? Is it a straight sale?

Mr. JACOBSEN. Well, it was a trade. They were going to trade the Lauren Lee for a Merlin aircraft.

Mr. GREGORY. What size craft was the Lauren Lee?

Mr. JACOBSEN. The Lauren Lee was about a 90- or 95-foot converted fishing boat. It had a heli pad on the back. It had bladder tanks for fuel in the front running all the way through it.

Mr. Seal was going to utilize it to run cocaine from Colombia, put it in the middle of the gulf and bring his helicopters in, land them on the Lauren Lee, refuel them, bring them into south Louisiana through the oil rigs and he was going to trade that boat.

Mr. GREGORY. So we are talking a big operation.

Mr. JACOBSEN. Yes.

Mr. GREGORY. Why is he negotiating for another plane? He has got a plane already, hasn't he?

Mr. JACOBSEN. Well, at the time he had the Howard 350 he couldn't utilize. He had a King Air he had been using before that was repossessed. So he needed an aircraft to travel around.

So he traded the Lauren Lee for a Merlin type aircraft so he could travel between Baton Rouge and Miami and Miami and Colombia.

Mr. GREGORY. Did anyone from DEA accompany Seal on any of these plane missions?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Were you able to have your own personnel stationed in countries like Panama or Colombia conduct surveillance on him while he was there?

Mr. JACOBSEN. No, sir. The reason is that all of the DEA personnel in Panama or Colombia are well known by all the cocaine traffickers and Mr. Seal couldn't meet with them or anything because that would mean exposure.

Mr. GREGORY. You began to tell us earlier about the second trip into Panama. Could you describe that now, please?

Mr. JACOBSEN. Okay. It was shortly after the murder of the prime minister in Colombia. All the cartel members, Ochoa, his

family, with the exception of his father, moved to Panama City, Panama.

They own property there so they just went to their ranches that they have close to Panama City, Panama. They asked Mr. Seal to meet them down there and to bring them a Hughes 500 helicopter, which Mr. Seal purchased and flew down there for them.

While in Panama, the cartel were setting up cocaine laboratories in Panama and they wanted Mr. Seal to bring down the helicopter so they could fly their supplies, their acetone and ether from the coast into their cocaine laboratories.

Plus Mr. Seal met with them about going into Managua, Nicaragua to view the strip that Pablo Escobar had talked to Mr. Seal about previously.

Mr. HUGHES. Can we fix an approximate time?

Mr. JACOBSEN. This would be in April or May of 1984.

Mr. GREGORY. Our research indicates on the 19th of May, Seal and Bates met with Ochoa, Escobar, Rodriguez-Gacha, and Frederico Vaughn. Does that sound like the right time frame?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Did he meet more than once in Panama with Vaughn, to your knowledge?

Mr. JACOBSEN. I can't recall. I know of the one time prior to his going with Vaughn to Nicaragua.

Mr. GREGORY. What was the purpose of that trip, what I will call the side trip from Panama to Managua?

Mr. JACOBSEN. Pablo Escobar brought Frederico Vaughn to Panama City, Panama to meet with Mr. Seal and Mr. Bates. Mr. Vaughn was representing members of the Nicaraguan government so it was arranged at this meeting for Mr. Vaughn to take Mr. Seal and Mr. Bates to Managua, Nicaragua to show them a military strip on the outskirts of Managua that would be utilized in their smuggling operation.

Mr. GREGORY. Do you know if we are talking about the same strip that was previously referred to?

Mr. JACOBSEN. Los Brasiles?

Mr. GREGORY. I don't know the name of it. You mentioned earlier the Colombians had available to them a strip.

Mr. JACOBSEN. It hadn't been—no name was mentioned initially. Mr. Seal didn't obtain the name of the strip until he went to Nicaragua.

Mr. HUGHES. The subcommittee is going to recess for about ten minutes so we can cast our vote on the rule on drought aid. The subcommittee stands in recess.

[Recess.]

Mr. HUGHES. The subcommittee will come to order.

Counsel was questioning the witness. Please continue.

Mr. GREGORY. When we broke, Mr. Jacobsen, you were describing a meeting in Panama in May of 1984 at which Barry Seal met Frederico Vaughn. Who is Frederico Vaughn?

Mr. JACOBSEN. At the time Frederico Vaughn was identified as a lieutenant under Thomas Board of Nicaragua.

Mr. GREGORY. When you speak of, "at the time," did you have any information available to you other than what the confidential informant, Barry Seal, was reporting back?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. So his report was, he was a lieutenant. Was he a uniformed lieutenant? Did he mention him wearing a uniform?

Mr. JACOBSEN. No, sir. As I recall, he was employed at the Department of Agriculture or Department of Interior, something like that. He was in a civilian capacity.

Mr. HUGHES. Did you get a sense of what level he was?

Mr. JACOBSEN. I didn't understand your question.

Mr. GREGORY. Any sense of what level he was within the government.

Mr. JACOBSEN. I understood he was a lieutenant——

Mr. GREGORY. But talking in U.S. terms, is he a GS-13 or where is he?

Mr. JACOBSEN. I have no idea?

Mr. GREGORY. You get an impression of the representations that were made about where he fell within that.

Mr. JACOBSEN. I understood he worked directly for one of the Ministers of Interior or Defense.

Mr. GREGORY. You say he was there representing the government; is that correct?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Representing them in what?

Mr. JACOBSEN. He was representing the Sandinista government of Nicaragua.

Mr. GREGORY. In what?

Mr. JACOBSEN. Drug smuggling.

Mr. GREGORY. How did Mr. Seal know that that was what he was there for?

Mr. JACOBSEN. Pablo Escobar, Mr. Seal, Mr. Bates, had a meeting. Frederico Vaughn represented himself as a representative of the Nicaraguan government that wanted to take Mr. Seal to Managua to show him the military strip that could be utilized in their drug smuggling.

Mr. GREGORY. Now, was Seal going as an agent of the cartel or was he going, you know, as one who was pursuing his own joint venture with the Sandinistas or in what capacity?

Mr. JACOBSEN. Mr. Seal was a transporter. He was going there representing the cartel. After he went—his purpose for going there was to observe the strip, see if it was suitable, see if they had storage facilities, see if they had a good strip that they could take on and off, to see if they had fuel, to see if they had a number of things that could be utilized for a smuggling operation.

Mr. GREGORY. Was that the extent of the discussions, the transshipment or was there other functions of the drug operation?

Mr. JACOBSEN. At that time it was just strictly transshipment, refueling and transshipment.

Mr. GREGORY. He then traveled to Managua pursuant to that discussion, correct?

Mr. JACOBSEN. Yes, sir. Mr. Bates, Mr. Seal and Mr. Vaughn traveled to Managua, Nicaragua.

Mr. GREGORY. Did you ever debrief, I guess it wouldn't be debriefing, since he was one of the bad guys, but did you ever interview Bates on these facts?

Mr. JACOBSEN. Mr. Bates refused to cooperate?

Mr. GREGORY. He never—you never heard any account from him on whether it happened essentially the same way or not?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Following the trip to Managua, well, let me stay with Managua. How long did Seal stay in Managua.

Mr. JACOBSEN. Mr. Seal stayed in Managua approximately 24 hours. He went over there one day and came back on the next.

Mr. GREGORY. Did he fly private or commercial?

Mr. JACOBSEN. Copa Airlines, which is a commercial airline.

Mr. GREGORY. Commercial over and back?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Where did he stay?

Mr. JACOBSEN. I think he stayed at the house of Frederico Vaughn. In fact, I know he did. One of the things Mr. Seal did while he was there was meet with Frederico Vaughn, go to Frederico Vaughn's house and establish a radio room in Frederico Vaughn's house.

Frederico Vaughn had a house or a little storage shed adjoining his home. He wanted an HF radio system brought in.

Mr. GREGORY. Brought in and installed.

Mr. LUNGREN. Mr. Chairman, is Mr. Vaughn's residence in Managua?

Mr. HUGHES. Yes.

Mr. GREGORY. Did he meet anybody else in the government there while he was there?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Did he keep in touch with you when he made those trips?

I mean, would he call in from Panama or Managua and say here is where I am?

Mr. JACOBSEN. He would call us from Panama.

Mr. GREGORY. He didn't call you ever from Nicaragua?

Mr. JACOBSEN. No, sir. He couldn't do it. He was, you know—he was afraid they would be monitoring any phone calls he made, so in fact even when he was in Panama, he was extremely afraid to make any phone calls to us because of the problem of monitoring down there.

Mr. GREGORY. What was the net result of that trip? Were there any agreements reached?

Mr. JACOBSEN. Yes, sir. Mr. Seal came back. We went to a strip. He approved it. Mr. Vaughn gave him all the radio codes for coming in and out of Nicaragua and the air routes. He came back and everything was established.

Mr. GREGORY. Were there any plans made for an initial use of that on a specific flight?

Mr. JACOBSEN. Not at that time.

Mr. GREGORY. When was the first flight down which had the purpose of actually picking up cocaine?

Mr. JACOBSEN. I believe it was in May of 1984. Mr. Seal and Mr. Camp in the Lockheed Lonestar left Arkansas en route to Colombia to pick up the cocaine. They traveled down to Colombia and they landed on a dirt strip in Colombia. It had been raining and the strip was extremely muddy. They were met at the strip by Carlos

Lehder. Carlos Lehder was on horseback and he was directing the Indians to load the aircraft.

The aircraft was loaded between 1,500 and 3,000 kilos of cocaine. As the aircraft attempted to take off, the strip was so muddy and the aircraft was so heavy, that the right wheel dug into the mud and the aircraft turned over. Mr. Seal and Mr. Camp got out of the aircraft and Carlos Lehder came up and helped them get out.

The Indians came up, took the cocaine out of the aircraft. They torched it and cut it up and buried it. Mr. Seal and Mr. Camp then, accompanied by Carlos Lehder, stayed in the jungle for approximately three days. While in the jungle, Carlos Lehder took them around and showed them about three or four stash houses, each containing between a thousand and two thousand kilos of cocaine. He then took them to Medellin, Colombia where they met with other cartel members. And at this time they were given another aircraft, a Titan 404, which is a smaller aircraft, to bring what they could out of Colombia and proceed back to the United States.

Several days later Mr. Seal and Mr. Camp went to a clandestine strip in Colombia where they loaded up approximately 700 kilos of cocaine and proceeded on a refueling stop from Colombia to Managua, Nicaragua.

Mr. GREGORY. Now, had they not had the accident with the larger plane, what was the intention, to fly direct back to the U.S.?

Mr. JACOBSEN. Yes.

Mr. GREGORY. What destination?

Mr. JACOBSEN. Baton Rouge, Louisiana.

Mr. GREGORY. That was the occasion which I believe you were waiting to receive the merchandise.

Mr. JACOBSEN. Yes. We were going to be waiting. In fact, it was Gulfport, Mississippi. We were waiting there in an undercover capacity. We were going to meet the aircraft, off-load it and take the cocaine to Miami.

Mr. GREGORY. So that the trip to Managua would not have taken place, but for the accident.

Mr. JACOBSEN. No, sir.

Mr. GREGORY. What happened when the 404 flew into Managua?

Mr. JACOBSEN. Okay. The 404—Pablo Escobar, when they gave Mr. Seal the 404, they said, "Let's try our new trafficking route. Go to Managua, refuel and come into the United States and finish the smuggling trip." So Mr. Seal left Colombia, flew to Nicaraguan air space, gave the prearranged codes to the Managua International Airport.

Managua International Airport directed Mr. Seal to what I call FAA people, military officials at this other military strip. Mr. Seal gave them the code names. They directed Mr. Seal in. After Mr. Seal landed, they refueled the aircraft, but one detail they had forgot to do is that in Nicaragua, private aircraft can't fly past 6:00 p.m.

They finished the refueling at approximately 6:30 or 7 o'clock and it was approaching dark. Mr. Seal departed with Mr. Camp. They departed the airstrip, left Mr. Vaughn, Pablo Escobar at the strip. As they were proceeding out of Managua over the mountains, Sandinista, anti-aircraft fire began shooting at them.

They shot at Mr. Seal's left engine. So Mr. Seal got back on the radio and couldn't contact anybody at the clandestine military strip, so he had to fly into Managua International Airport with an engine gone. When he landed, the military surrounded the aircraft and arrested Mr. Seal and Mr. Camp, and he at that time, Mr. Seal told them that Frederico Vaughn would take care of it.

They were not to touch the cocaine, but just secure it. The military then took Mr. Seal to the Somosa bunker, where they detained him overnight. This is a bunker where it is just a real primitive jail.

In the morning, Frederico Vaughn came and got Mr. Seal and Mr. Camp out of jail, apologized to them and told them the cocaine was being stored and everything was all right. They then took Mr. Seal to a mansion in Managua that was being utilized by Pablo Escobar and the cocaine cartel. The cocaine cartel was establishing cocaine laboratories, processing laboratories in Managua at that time and Pablo Escobar was there, Gonzolo Roderiguez-Gacha was there and all of their laboratory operators were staying in this mansion.

Mr. Seal took pictures of the mansion from the outside and from the inside, which we did have. He stayed there for approximately three days, meeting with cartel members, and discussing their operation. After approximately three days, Pablo Escobar gave Mr. Seal and Emille Camp a ride back from Nicaragua to Nassau, Bahamas, in a private aircraft and Mr. Seal returned to the United States the next day on commercial airlines.

Mr. GREGORY. Did he see any of the processing facilities?

Mr. JACOBSEN. No, he did not.

Mr. GREGORY. Did he meet with any other Nicaraguans, other than Vaughn?

Mr. JACOBSEN. Not that I know of, no, sir.

Mr. GREGORY. So is that the cocaine—he got the cocaine in Managua and he is now back in the United States. What was the next step?

Mr. JACOBSEN. We have to get an aircraft to go back to Managua to pick up the 700 kilos of cocaine.

Mr. GREGORY. The rest of it is what, still back in Colombia somewhere.

Mr. JACOBSEN. The remainder is back in Colombia, yes, sir.

Mr. GREGORY. There was a total between 1,500 and 3,000. Can you be a little more precise?

Mr. JACOBSEN. There was approximately 1,500 kilos on the aircraft when it took off—

Mr. GREGORY. So—

Mr. JACOBSEN. There was about seven or eight hundred kilos left. While Mr. Seal was there, they later showed him approximately three or four thousand more kilos.

Mr. GREGORY. So in terms of putting this in perspective of law enforcement in this country, as of that time, how would this rank, you know, as a seizure if that were brought in and presumably seized as you planned?

Mr. JACOBSEN. At that time it would have been one of the largest in the country.

Mr. GREGORY. You were going to tell us about the acquisition of the plane to make the flight.

Mr. JACOBSEN. Yes, sir. Mr. Seal had the Merlin 3B aircraft. He traded that aircraft for a C-123K, which is a former military aircraft that you can drive up into the back of. He traded that and we fixed the aircraft and prepared it to go to Nicaragua.

Mr. GREGORY. Did DEA have any money or any financial interest in that C-123?

Mr. JACOBSEN. Arrangements were made through the Pentagon to have the aircraft flown to, I believe, Columbus, Ohio or an air force base in Ohio, where it remained for about approximately seven to 10 days, where it—some structural repairs and some engine repairs were done. I think the final cost was approximately \$40,000.

Mr. GREGORY. Was that routine maintenance or was it done on account of a priority basis or what is your sense?

Mr. JACOBSEN. It was a priority basis.

Mr. GREGORY. How do you know that?

Mr. JACOBSEN. We were, you know, in daily contact with Mr. Seal and the aircraft and we were put in touch with some air force officials at the air force base who were supervising the repairs.

Mr. GREGORY. Who arranged that within DEA? Did you?

Mr. JACOBSEN. I did not, no. It was all done out of DEA headquarters.

Mr. GREGORY. What size crew did they have working on the plane?

Mr. JACOBSEN. From what I understand, there were 30 to 40 people working on it 24 hours a day.

Mr. GREGORY. Where was Seal at this time?

Mr. JACOBSEN. He was commuting between Ohio and Miami. He continued to talk with cartel members during the repairs.

Mr. GREGORY. Now you mentioned Emille Camp being along on the flight that got shot up in Managua and the one that crashed in Colombia.

Mr. JACOBSEN. Yes.

Mr. GREGORY. What happened to Bates?

Mr. JACOBSEN. Mr. Bates was originally scheduled to go on the flight. At the last minute, Mr. Bates developed a cocaine problem, and he also developed some marital problems. So Mr. Bates removed himself voluntarily from being co-pilot on the trip. Mr. Seal brought Mr. Camp into the picture at that time.

Mr. GREGORY. Camp is a pilot who has flown for some time in Seal's drug operation, correct?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Now deceased?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. You indicated earlier that at the time of those initial discussions with the CIA they didn't give you any help. It was a one-way street. Later on there was some help. What form did that help take?

Mr. JACOBSEN. They assisted us in identifying the military strip in Managua. When Mr. Seal originally went down, all he could give me was to say it is a military strip. It had a railroad track by it. The west side of the strip was mined. It had hangars on one side

and had machine gun implacements on the other. He couldn't give me a name of it or precisely where it was.

Mr. GREGORY. When did they identify it for you in terms of events?

Mr. JACOBSEN. Shortly after Mr. Seal returned.

Mr. GREGORY. After he returned from his trip?

Mr. JACOBSEN. From the original trip to Managua.

Mr. GREGORY. From the original trip. Anything else? Did they give you anything else?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Anything on Vaughn? Any information on who this guy is?

Mr. JACOBSEN. Just he worked for one of the ministers and he was a Sandinista official.

Mr. GREGORY. Okay. So now we have got the 123. We have got it renovated, rebuilt, however you characterize it, in Ohio, what is next?

Mr. JACOBSEN. The aircraft was brought to Miami, Florida, where the CIA met with us and took the aircraft and put two cameras in it. They put one camera in the nose and they put one camera, yet to see this—you have to see the aircraft. The back tail folds down. They put a camera in a box inside, shooting down the ramp toward the back of the aircraft.

Mr. Seal was given a remote control button to put in his pocket, which he could snap the photographs, remotely. That was done in Florida.

Mr. GREGORY. So now the plane is ready to leave, is that right?

Mr. JACOBSEN. Right.

Mr. GREGORY. Where is the plane now?

Mr. JACOBSEN. The plane is in Miami. Prior to the aircraft's departure, myself and Robert Joura, my boss, picked up \$454,000 to give to Mr. Seal to take to Managua, which we picked it up and we gave it to Mr. Seal prior to his leaving the United States.

Mr. GREGORY. Picked it up from whom?

Mr. JACOBSEN. From a representative of Carlos Bustamante.

Mr. GREGORY. Who was that representative?

Mr. JACOBSEN. The individual's name was Paul Etzel. We met him in a parking lot of a barbecue place one Sunday afternoon in Miami and he had it in the trunk of a Toyota car in plastic bags.

Mr. GREGORY. How do you know he represents Bustamante?

Mr. JACOBSEN. He met with Mr. Seal on numerous occasions. He was a worker for Carlos Bustamante. We identified them together and he acted as an interpreter.

Mr. GREGORY. What does this money represent?

Mr. JACOBSEN. Pay offs for the Sandinistas.

Mr. GREGORY. Is it just for the Sandinistas or is it proceeds for the Colombians as well?

Mr. JACOBSEN. I understood it to be just pay offs.

Mr. GREGORY. Who told you that?

Mr. JACOBSEN. Mr. Seal.

Mr. GREGORY. When did the Colombians get paid when they made—of course we haven't made a delivery yet, but when they shipped this cocaine in, and they have got their own drugs network, do you know what the routing of that money is?

Mr. JACOBSEN. Usually, and on this load, when it came back in, we couldn't allow it to hit the streets, so we seized it. But usually a man in Mr. Seal's capacity who is a transporter gets between \$2500 and \$5000 a kilo to transport it. It is usually paid within 24 to 48 hours after delivery of the cocaine is made.

Mr. GREGORY. What are the Colombians indebted to the Sandinistas for at this point?

Mr. JACOBSEN. They are allowing them to set up the cocaine laboratories.

Mr. GREGORY. Just for the labs?

Mr. JACOBSEN. And they are letting them use this military strip.

Mr. GREGORY. They haven't used it, though, to your knowledge, have they?

Mr. JACOBSEN. Well, they have now. They had to, you know. Mr. Seal used it when he was shot down.

Mr. GREGORY. I see. But they haven't used it for anything coming into the United States, to your knowledge?

Mr. JACOBSEN. No.

Mr. GREGORY. Where does the plane depart from?

Mr. JACOBSEN. The plane departed from Homestead Air Force base. It went from Homestead to Key West, and it went to, straight into Managua.

Mr. GREGORY. Was there anything the cartel wanted other than money?

Mr. JACOBSEN. Yes. We picked up approximately \$200,000 during the week prior to the departure. On three different occasions, we picked up \$60,000 one time, \$70,000 another time, and \$80,000 another time.

With that, the cartel wanted radio communications, HF radio communications established between Colombia, Managua, in that area.

So Mr. Seal purchased a lot of IPT McKay HF radios. Approximately \$200,000 worth. We loaded those scanners, portable handheld radios, all kinds of radio equipment on the aircraft.

Mr. GREGORY. What is the capacity of these radios, and what can they do?

Mr. JACOBSEN. You talk around the world on them.

Mr. GREGORY. So, in other words, they can communicate between Nicaragua and Colombia?

Mr. JACOBSEN. You can talk anywhere you want to. You can set up a three way between the United States, Colombia, Nicaragua, and you can talk virtually almost around the world.

The equipment they purchased was probably the most sophisticated on the market at the time. It had 280,000 channels. They bought the best.

Mr. GREGORY. Who was present when this plane departed?

Mr. JACOBSEN. I am, the CIA, my boss, a lot of us were present.

Mr. GREGORY. What function is the CIA performing?

Mr. JACOBSEN. They are assisting us.

Mr. GREGORY. In what way?

Mr. JACOBSEN. They assisted us loading the aircraft with the radios and they put the cameras on and they just assisted us on the whole thing.

Mr. GREGORY. Are the cameras there for CIA purposes, DEA purposes, both, others?

Mr. JACOBSEN. I thought they were there to assist DEA.

Mr. GREGORY. You don't think that anymore, I take it?

Mr. JACOBSEN. I have my own feelings about it, yes, sir.

Mr. GREGORY. What assistance would they be to DEA?

Mr. JACOBSEN. Well, the cameras, initially the nose camera was posed. Mr. Seal thought when he landed he was taking pictures through the nose camera of the whole strip, the hangars, the military, the machine gun implacements, everything. That would have assisted us greatly, you know, in identifying where we were.

The Sandanistas were supposedly giving us a hangar or giving Mr. Seal a hangar to store his cocaine in, put his fuel in. We would have had all that identified. Unfortunately, we found out that film didn't come out.

Mr. GREGORY. Was there anybody from U.S. Customs there to clear the flight?

Mr. JACOBSEN. On its return?

Mr. GREGORY. No. Going out. We are talking going out now.

Mr. JACOBSEN. I don't think so, no, sir.

Mr. GREGORY. Who was the crew?

Mr. JACOBSEN. The crew was Mr. Seal, Mr. Camp, and Mr. Everson.

Mr. GREGORY. Everson is the flight engineer?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. That is Peter Everson?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Is that a non-stop flight in that plane to Managua?

Mr. JACOBSEN. It is a non-stop, yes, sir. They had to refuel in Managua.

Mr. GREGORY. What happens when they land in Managua?

Mr. JACOBSEN. When they landed in Managua, they proceeded to the end of the strip and turned around. Frederico Vaughn, Pablo Escobar, Gonzolo Rodriguez-Gacha, and some Sandinista military met the aircraft. They brought down the back of the aircraft and they proceeded to refuel it and load it with cocaine.

Mr. GREGORY. You have some folders before you I believe and can you take a look at those and identify people that you know?

Mr. JACOBSEN. If you look at the first picture, you see Mr. Seal on the right hand side with his hand in the air. With his back turned to—on the picture, facing Mr. Seal is Frederico Vaughn. The gentleman standing on the right side of Mr. Seal with the striped shirt on is Pablo Escobar. The rest of the people in the picture are Sandinista military.

Mr. GREGORY. They don't appear to be in uniform.

Mr. JACOBSEN. No, sir, they weren't.

Mr. GREGORY. How do you know they were in the military?

Mr. JACOBSEN. Mr. Seal said they had AK-47 rifles and when they loaded the aircraft, they took their coats off. They had brand new AK-47's, he said.

The second picture, you see at the top of the picture is Gonzolo Rodriguez-Gacha. Mr. Seal, Pablo Escobar and some unidentified people. They were carrying burlap bags full of cocaine, kilo packages.

On the third picture, you see, from the top going down towards Mr. Seal, you see two Sandinista military. You see Frederico Vaughn with a duffle bag of cocaine in his hand, and he is preparing to hand it to Mr. Seal.

On the fourth picture, Frederico Vaughn is handing the duffle bag to Mr. Seal. On the next picture which is hard to see, but you have got Frederico Vaughn, Pablo Escobar, and you have got Mr. Seal shaking hands with Gonzolo Rodriguez-Gacha.

On the last picture you have Frederico Vaughn trying to get an unidentified Nicaraguan off the ground and get him working.

Mr. GREGORY. How long were they in Managua on this trip?

Mr. JACOBSEN. They were in Managua longer than expected because they had no refueling capacity. They had to back the fuel truck inside the airplane, take buckets and refuel about 5,000 gallons fuel with buckets. So they were there for about eight or nine hours.

Mr. GREGORY. Okay. So I am going to try to move through this as quickly as I can. The plane returns to Homestead. Is that correct?

Mr. JACOBSEN. Yes.

Mr. GREGORY. What happens to the film?

Mr. JACOBSEN. The aircraft is met at Homestead. The film is taken out, flown to Washington, D.C., where it is processed. The next day it is brought back to myself in Miami, and I am told that the nose camera didn't function and I was given the pictures that you just looked at.

Mr. GREGORY. Yes. Who gave them to you?

Mr. JACOBSEN. One of the CIA guys that we were working with.

Mr. GREGORY. Did you have any discussion then of what might be done with the pictures?

Mr. JACOBSEN. I couldn't hear your question, sir.

Mr. GREGORY. I said was there any discussion or any remarks made about what use might be made of the photos?

Mr. JACOBSEN. No, sir. Oh, they said that they wanted to release the pictures.

Mr. GREGORY. Who is they?

Mr. JACOBSEN. The CIA. We said absolutely not. We went to the bosses in Miami DEA and told them that what the CIA was trying to do and requested that they call Washington and stop it. Which was done.

Mr. GREGORY. Who within the—was this to be released to the press or in what fashion?

Mr. JACOBSEN. CIA wanted to release it to the press.

Mr. GREGORY. For what purpose?

Mr. JACOBSEN. To show that the Sandinistas were dealing in cocaine.

Mr. GREGORY. You say they wanted to. Was this CIA in Miami, CIA in Langley or where?

Mr. JACOBSEN. They told me CIA in Langley wanted to—that the pictures were being taken over to the White House and that they wanted to release them to the press.

Mr. GREGORY. The pictures had been or were being taken to the White House?

Mr. JACOBSEN. They had already been taken.

Mr. GREGORY. Was the White House also urging that they be made public, if you know?

Mr. JACOBSEN. I don't know that. That is all I know that they were taken over there and I know that the CIA, Langley, wanted to release them to the press.

Mr. GREGORY. What reasons, although I think they are fairly obvious, did you give for not making them public?

Mr. JACOBSEN. Well, we were in the middle of probably the most significant cocaine investigation of my career, and I know that probably one of the most significant investigations in DEA history.

We had a chance to probably get together and arrest all the cartel members.

Mr. GREGORY. Do you know if the photos went to the White House before DEA got them?

Mr. JACOBSEN. I assume they were, because the pictures were developed at Langley, and flown back to Miami with the negatives. Everybody else had their copies up in Langley.

Mr. GREGORY. You said that you reported this to your superiors in Miami and they in turn to their superiors in DEA, Washington; is that correct?

Mr. JACOBSEN. Yes.

Mr. GREGORY. It was stopped; is that right?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Who told you it was stopped?

Mr. JACOBSEN. It didn't get released and I was informed that it had been stopped and we could proceed with our investigation. Mr. Seal, you know, if he was identified would be killed because he was still undercover and still meeting with cartel members.

Mr. GREGORY. What happened to the cocaine?

Mr. JACOBSEN. The cartel bought us a \$40,000 mobile home. Just to deliver the cocaine in. We put it, the cocaine, in the mobile home and we took one of our surplus cars and we wrecked the surplus car into the mobile home in Miami, and had the highway patrol come up and just investigate the accident and find the cocaine, where it was seized.

Mr. GREGORY. So you seized that and took it off the street?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. You say you faked an accident?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. To give some cover to the bust?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. This is done without disclosing the operation or having to terminate, is that correct?

Mr. JACOBSEN. Right. We wanted to get the cocaine off the street without disclosing our undercover operation.

Mr. GREGORY. There is more cocaine down there. Are there plans to go back and get it?

Mr. JACOBSEN. When the cartel saw Mr. Seal had such a big airplane, they arranged for Mr. Seal to start flying cocaine base from South America into Managua. They wanted him to bring 18,000 kilos of base every two weeks into Managua and process it.

After it's processed in Managua it's to be flown into Mexico and from Mexico from small aircraft into the United States.

Mr. GREGORY. This is reported to you by Seal when he returned from the June 26 flight?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Bringing in the cocaine; correct?

Mr. JACOBSEN. Yes.

Mr. GREGORY. So what is then done, pursuant to the investigation, what is the next step?

Mr. JACOBSEN. Mr. Seal is asked by the cartel to come back to Nicaragua and pick up 900 kilos of cocaine. He is also asked, he is given money to purchase a bunch of equipment, bicycles and out-board motors and rubber rafts to bring down in the airplane for Sandinista officials.

He is given also \$1.5 million to bring down for bribes and to pay for equipment in Managua. So he leaves and goes down and makes a delivery and on the way down, it was arranged prior to his departure that he would not bring back any cocaine.

So he went down, delivered the money, delivered all the toys, and came back empty.

Mr. GREGORY. Who was this money for? You say for bribes and other purposes?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Some of it proceeds for the Colombians?

Mr. JACOBSEN. It would have to be. It would have to have come from Carlos Bustamante. He and his wife showed up at the Omni Hotel and brought two suitcases and two cardboard boxes full of money.

Mr. GREGORY. You saw that money, didn't you?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Were you there when it was brought in or was it already in the room when you arrived?

Mr. JACOBSEN. I saw it like the next day or something. It was brought there. Mr. Seal didn't even know it was coming. He called, I believe my former boss, Bob Joura, after the money was delivered.

Mr. GREGORY. Why was it decided to not bring back the cocaine?

Mr. JACOBSEN. The U.S. attorney and the administrator of DEA made that decision.

Mr. GREGORY. The administrator being?

Mr. JACOBSEN. Mr. Lawn.

Mr. GREGORY. If you know, why did they make the decision, on what basis?

Mr. JACOBSEN. They were afraid if 900 kilos came back, that we would have to seize it again and that would end the investigation.

Mr. GREGORY. Was there any problem emerging by this point about leaks?

Mr. JACOBSEN. Yes, there was.

Mr. GREGORY. What is your first recollection of leaks?

Mr. JACOBSEN. We received a call from—I can't remember exactly where it came from, either our headquarters or somebody, had called Miami and said that the story had been leaked to the Washington Post. We then contacted the paper and they agreed to withhold a disclosure for a week or so.

Mr. GREGORY. Do you recall that subsequently the story did come out in the Washington paper; correct?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Is it your understanding that this was the same paper that had it earlier or was it a different one?

Mr. JACOBSEN. I understood it to be the same one.

Mr. GREGORY. So it could have been and, in fact, the story came out in the Washington Times—

Mr. JACOBSEN. That is correct. I meant the Washington Times.

Mr. GREGORY. So your recollection now is that it was the same—it was the Washington Times that had it originally?

Mr. JACOBSEN. Yes.

Mr. GREGORY. When did they get it and when did you learn that they had it?

Mr. JACOBSEN. It was—I can't remember—

Mr. GREGORY. Shortly after the load came in?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Who convinced them to hold the story?

Mr. JACOBSEN. DEA in Washington did.

Mr. GREGORY. Were there any other reports regarding the operation that, you know, came out in that time period?

Mr. JACOBSEN. Not that I can remember, sir.

Mr. GREGORY. Do you recall when we—when you and I spoke last, you made reference to a speech in Central America by an American official?

Mr. JACOBSEN. Yes, I recall that.

Mr. GREGORY. Do you recall that?

Mr. JACOBSEN. Yes. I don't recall the general's name, but there was a general in Latin America that apparently had been briefed on it, because this was a Latin American briefing, but he did have a speech and at the time that he gave his speech, he disclosed the whole thing.

Mr. GREGORY. The story in the Washington newspapers that came out after the flight to deliver the \$1.5 million and the consumer goods and come back empty; is that correct?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. What was the result of that story when it came out, what was the result of the investigation?

Mr. JACOBSEN. It ended it.

Mr. GREGORY. What was the immediate response of you and the U.S. Attorneys office to that story?

Mr. JACOBSEN. Well, we were in the middle of a highly sensitive investigation. We had to obtain search warrants. We had to obtain arrest warrants. We had to try to do the best we could with the time allotted, because once it hit the streets in the papers, I mean all these violators we were working on were going to be gone.

So we obtained search warrants and indictments within 24 hours and started arresting people.

Mr. GREGORY. Did you obtain an arrest warrant for Ochoa?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Did you get him?

Mr. JACOBSEN. We had him arrested in Spain, yes, sir.

Mr. GREGORY. But we don't have him now, right?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. How about Escobar?

Mr. JACOBSEN. We never arrested him, no, sir.

Mr. GREGORY. How about Gacha?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. What was planned for the operation had this not happened? Were there other particular undertakings on—in the planning?

Mr. JACOBSEN. Yes, sir. There were two. The first was Mr. Seal was so entrenched in the cartel, that they were going to show him all of their assets in the United States, all their strips, all their storage areas in Georgia, Florida.

They were going to show him a 40,000 acre ranch in the Yucatan that they owned, that they wanted to take when they took the drugs from Managua to Mexico, they stored at Mexico. From Mexico they would fly it into the United States in small aircrafts, 400 and 500 kilos at a time. They were going to show him their whole operation. That is the first thing.

The second thing was that Mr. Seal had agreed to try to get together all the cartel members in one place where they could be arrested. We were in the process of doing that and the story broke.

Mr. GREGORY. That all was a shut down; is that correct?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Seal made a number of phone calls to Managua to Frederico Vaughn, didn't he?

Mr. JACOBSEN. Yes, sir.

Mr. GREGORY. Did you monitor and/or record some of those calls?

Mr. JACOBSEN. Yes, sir, we did.

Mr. GREGORY. Let's start with the recording. Did you record all of them that you were aware took place?

Mr. JACOBSEN. We recorded, I would say, the majority of the calls to Frederico Vaughn.

Mr. GREGORY. Were they all to the same number?

Mr. JACOBSEN. Yes.

Mr. GREGORY. Was this his home or did he have an office or where would he call him?

Mr. JACOBSEN. I can't recall where we called him. I think it was his home.

Mr. GREGORY. One final question: did you have any previous association with Barry Seal before he was referred down to Miami in 1984?

Mr. JACOBSEN. I assisted in the arrest, the initial arrest of Barry Seal in 1972. That was the only thing.

Mr. GREGORY. What was that arrest for?

Mr. JACOBSEN. Mr. Seal was involved in an exportation of explosives and munitions from the United States from New Orleans, Louisiana and he was arrested on an export violation.

Mr. GREGORY. What was the disposition of that case, if you know?

Mr. JACOBSEN. After about a year and a half, the charges were dropped.

Mr. GREGORY. Do you know why?

Mr. JACOBSEN. No, sir.

Mr. GREGORY. Thank you, Mr. Chairman.

Mr. HUGHES. Okay. Thank you.

My colleagues agree, we will try to operate pretty strictly under the five minute rule after we give Paul McNulty an opportunity to ask questions.

Mr. McNULTY. That won't take very long, Mr. Chairman.

I want to go back over the chronology very quickly and get a few facts clarified.

Mr. Jacobsen, you have spent a great number of hours to say the least in law enforcement in your career. You put a lot of time and effort into this case; isn't that correct?

Mr. JACOBSEN. Yes, sir.

Mr. McNULTY. In fact, I think in the deposition that I had with—I met with you, you and Mr. Joura were working just about seven days a week on this particular case, is that true?

Mr. JACOBSEN. Yes, sir.

Mr. McNULTY. Which may not be extraordinary for you, but would you say that was an extraordinary effort on your part at that time?

Mr. JACOBSEN. This case was probably the most significant case that I have ever worked on, and during the course of it, I think we worked 12 hours a day, seven days a week.

Mr. McNULTY. It was a very important case to you?

Mr. JACOBSEN. Yes.

Mr. McNULTY. To say the least?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Now, Mr. Joura is not here today and I would like to clarify for the record just what his relationship was to you. Mr. Joura was your supervisor; is that correct?

Mr. JACOBSEN. He was my group supervisor, yes, sir.

Mr. McNULTY. Now, how did that work in terms of the specific details and direction of the case? How did the two of you work together? Did he have to approve every change in plans? Can you describe the working relationship you had with Mr. Joura?

Mr. JACOBSEN. He was my boss and Mr. Seal was—acted as an informant under my control. I was the case agent on the case. As the case developed, I had to confer and get Mr. Joura's approval on everything. This was such a sensitive case that, you know, we are in touch constantly and Mr. Joura was going to the front office and getting approval for things we were doing, you know, constantly.

Mr. McNULTY. Mr. Joura was relatively new to Miami at this time, was he not?

Mr. JACOBSEN. Yes, he was.

Mr. McNULTY. In fact, the case where Barry Seal was originally convicted had taken place prior to his arrival, do you remember that?

Mr. JACOBSEN. Yes, that was prior to his arrival.

Mr. McNULTY. So in a sense, his next professional step began with the Barry Seal case?

Mr. JACOBSEN. Yes.

Mr. McNULTY. I am sure he exercised a great deal of time and attention to the details?

Mr. JACOBSEN. Yes, sir.

Mr. McNULTY. You, being in Miami of course, at this time, in 1984, were probably well aware of the events going on in Central

America affecting the cartel. Specifically, there was an assassination of a minister of justice in Colombia; is that correct?

Mr. JACOBSEN. Yes, there was.

Mr. McNULTY. How—well, what effect did the assassination of Lara-Bonilla have on the cartel? Can you describe briefly just what the cartel members did generally speaking after that occurred?

Mr. JACOBSEN. This is from my memory, but at the time when that assassination took place, the Colombian government initiated a crack down on all major drug traffickers. So it forced, you know, Pablo Escobar, all the major cartel members to flee the country to Panama.

They went to Jorge Ochoa's ranch and put his father in jail on a gun charge just for harassment, in fact. All the cartel members fled Colombia, and they just relocated in Panama until the heat was off. In 30 days they went back and that was it.

Mr. McNULTY. But in the case of Pablo Escobar, he not only went to Panama, he went to someplace else as well.

Mr. JACOBSEN. To Managua, yes.

Mr. McNULTY. So in a sense, the events that Barry Seal was involved in were affected by this assassination?

Mr. JACOBSEN. Yes, they were.

Mr. McNULTY. Because that established the basis for the Nicaraguan drug operation, is that correct?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Now, you mentioned Carlos Bustamante's involvement in this case and you said that he may have been operating for approximately a year. What was his responsibility in the cartel?

Mr. JACOBSEN. Okay. Once—he represented the Ochoa cocaine organization. He represented probably from the Mississippi River east. All the cocaine belonging to the Ochoas that came into the United States went to him in Miami. He received a commission of \$300 a kilo for every kilo brought into Miami. Then it was just re-distributed throughout the country by him. So he was assigned the distributorship for the Ochoas.

Mr. McNULTY. Now, Bustamante obviously wasn't one of the cartel leaders, but that is a pretty significant responsibility relative to what other cocaine traffickers are doing in the Southeast United States. Wouldn't you say that?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Where is Mr. Bustamante today?

Mr. JACOBSEN. He is in prison serving 40 years.

Mr. McNULTY. How many?

Mr. JACOBSEN. Forty.

Mr. McNULTY. Forty. How was he arrested?

Mr. JACOBSEN. He was arrested the day after the story was released.

Mr. McNULTY. He was one of the people you were able to get into the net rather quickly?

Mr. JACOBSEN. Yes.

Mr. McNULTY. I am going to jump ahead in the chronology here. After the load of cocaine that came in on the C-123 by Mr. Seal that was put into the camper and was subsequently lost because of

the staged accident, the cartel did some investigations of that accident, did they not?

Mr. JACOBSEN. Yes, they did.

Mr. McNULTY. Could you describe what you remember about the cartel's investigation of what happened in that accident?

Mr. JACOBSEN. They hired an attorney to look into Mr. Seal's background. They only knew Mr. Seal as El Gordo, which means the fat man, or barely. This attorney that they hired, they paid \$70,000 to, he went to Fort Lauderdale and we had taken the precaution of having all of Mr. Seal's prior drug arrests and everything, court records, sealed. Some way he found out. He came back and told Mr. Bustamante that Mr. Seal had been arrested, tried and convicted, and he was at the present time awaiting sentencing.

Mr. McNULTY. Anything else happen relative to the accident and the DEA person who might have been driving the car that caused the accident?

Mr. JACOBSEN. I don't recall. I don't recall it.

Mr. McNULTY. Now, to summarize what you just said, so I understand, the cartel was able to learn that Barry Seal—first of all, what his real name was, and secondly, that he was currently awaiting sentencing or actually had been sentenced at this time. So he was awaiting—he was out on appeal, is that correct?

Mr. JACOBSEN. Yes.

Mr. McNULTY. So they knew that about him. And Mr. Joura has stated in deposition to us they did do some investigation of the individual who was involved in the accident, the staged accident. I am not sure if that triggers your memory at all. Is there a vague recollection of that?

Mr. JACOBSEN. I think they looked into it and they thought it was a DEA agent. That is all I can recall.

Mr. McNULTY. Okay.

Now, in making the decision about going back, the question comes up about the controlled delivery. I know that you were very excited about this case, and you had put a lot of time into it. Did you think—I am asking a personal question now—did you think that you could bring another load of cocaine to the United States and keep it off the streets in a similar manner to the first load of cocaine?

Mr. JACOBSEN. Yes.

Mr. McNULTY. I don't want you to disclose your methods of operation but in other words, you were going to utilize other tricks of the trade that would work in this case?

Mr. JACOBSEN. Yes.

Mr. McNULTY. How many times did you think you could have done that?

Mr. JACOBSEN. That probably would have been the last one.

Mr. McNULTY. Of course your ideas, I think personal ideas, perhaps Mr. Joura's ideas, included using Mr. Seal to ferry cocaine paste, coca paste from South America, Bolivia, Peru, to Nicaragua, and then supposedly it would be processed in Nicaragua and it would be brought into the United States not by Mr. Seal though, because again, we would have the problem of controlling those deliveries. So what were your thoughts about how to control the co-

caine that would come into the United States if Mr. Seal indeed did serve the purpose of bringing coca paste to Nicaragua?

Mr. JACOBSEN. First thing that we really wanted to do was find out the trafficking routes from Bolivia, Peru and all these places in South America where Mr. Seal was going to pick up, establish those and identify them, bring them into Managua, let him bring them in. He was going to take the dope back out again, too. So as time went on, we could have always diverted the aircraft. If he ad 1800 kilos or whatever there at that time, we could have always shut down the investigation after we identified all these traffic routes, possibly identified all their assets in the United States, or the majority of them, and we could have shut it down with a big seizure along the line somewhere.

That was our objective, to do that, to identify the trafficking routes, to identify their assets in the United States, and that was our main purpose.

Mr. McNULTY. Let me pursue that just a little more. You are a very experienced drug law enforcement officer. Mr. Seal made several assertions about how he was going to have access to cartel information. You just mentioned a moment ago to my co-counsel that he was going to be shown the operations and the assets of the cartel. They were going to show him what their interests were in the United States and the ranches in Mexico and so forth, and yet at the same time, they only learned what his real name was after they lost their first load and when they did learn what his real name was, they found that he was—not only had been arrested and convicted, but sentenced and was out on bond waiting appeal.

So they don't know a whole lot about him, yet they seem to have the resources, legal investigative resources to learn more about him, and did use those resources eventually. Did you have any problem with the apparent inconsistency of their knowledge of Barry Seal and yet their willingness to show Barry Seal their whole operation?

Mr. JACOBSEN. Well, see, when that arrest was done, even though they found out who Barry Seal was, we put the blame on somebody else, so the cartel didn't blame Mr. Seal for losing the load. They blamed somebody else.

Mr. McNULTY. So their trust for Mr. Seal was not affected by this?

Mr. JACOBSEN. No. They trusted Mr. Seal implicitly. They even paid him for bringing it in. They paid him \$500,000 to bring it in.

Mr. McNULTY. Now, when making the decision about sending him back to Nicaragua to bring in more cocaine, the U.S. attorney in Miami, Richard Gregorie, was working on this case, was he not?

Mr. JACOBSEN. Yes, he was.

Mr. McNULTY. What was his concern about doing this? Going back again and bringing more cocaine?

Mr. JACOBSEN. Well, he thought you were just really adding icing on the cake. We had 664 kilos of cocaine. He didn't want to put Mr. Seal in jeopardy. He thought if we brought back 900 kilos of cocaine it is not going to improve your case any more. He thought possibly that if we seized 900 kilos that it would stop the investigation.

Mr. McNULTY. Mr. Joura I think mentioned to staff in his deposition they had a different perspective about being patient to get the cartel members at a later date if they had the indictments, is that correct?

Mr. JACOBSEN. Yes.

Mr. McNULTY. And if indeed you had lost Mr. Seal on the second trip, say he was shot down again only this time he wasn't so fortunate to make it back, how would that have affected your case against those who you had in Miami?

Mr. JACOBSEN. It would have put the case in jeopardy. You know, Mr. Seal did testify at the trial and his testimony was very valuable. Probably without Mr. Seal, the case would have gone, would have not been developed.

Mr. McNULTY. Now, I very quickly want to go through the pieces of information you received from Mr. Seal throughout this time period involving the Sandinistas. Let's summarize those very quickly. When Mr. Seal went to Managua and was subsequently shot down on that particular trip, you say he stayed in the prison overnight?

Mr. JACOBSEN. The Somosa Bunker.

Mr. McNULTY. Right. But he was released the next day?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Yet there was cocaine on his plane?

Mr. JACOBSEN. Seven hundred kilos, yes sir.

Mr. McNULTY. And he landed it at Managua airport?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Did you say that the military personnel there stored that cocaine for him?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Now, what about this time he spent in the mansion? Would you describe that again? Were there pictures taken of that time?

Mr. JACOBSEN. Yes, there were. Mr. Seal took pictures of the front of it and he took pictures from the front door out over the mountain in Managua. So we did—we were able to identify from the pictures that it was in Managua.

Mr. McNULTY. What mansion was this.

Mr. JACOBSEN. I have no idea. It was a mansion. It had a fence around it. Pablo Escobar was given the run of it.

Mr. McNULTY. Was it old or new?

Mr. JACOBSEN. Maybe it was ten years old. I really couldn't tell that much of it from the picture. You just had the front of it and that was it.

Mr. McNULTY. Where are those pictures today, do you know?

Mr. JACOBSEN. The press has got them. Everybody has got them.

Mr. McNULTY. So they are presumably in the DEA file on this?

Mr. JACOBSEN. Yes.

Mr. McNULTY. The assistance that you received from the Pentagon to prepare the C-123 for this trip, you mentioned a certain number of personnel working on that. What was that number again?

Mr. JACOBSEN. Approximately 40 people.

Mr. McNULTY. Were those all Pentagon people, Air Force personnel? Who were those people?

Mr. JACOBSEN. I understand it to be military personnel.

Mr. McNULTY. And they worked how long?

Mr. JACOBSEN. They worked 24 hours a day for about seven days getting it ready.

Mr. McNULTY. Finally, when you did get a chance to, when you had to, bring this case to a close and go out and arrest those that were involved, who did you get? My counsel asked you about two of the cartel leaders that you did not get. Who did you get when you went out and made the arrests?

Mr. JACOBSEN. We only got the principal players in Miami—Carlos Bustamante, Paul Etzel, several others. I can't remember their names.

Mr. McNULTY. Felix Bates.

Mr. JACOBSEN. Felix Bates, yes, and three or four others.

Mr. McNULTY. Did you get convictions on all those cases?

Mr. JACOBSEN. Yes.

Mr. McNULTY. Thank you, Mr. Chairman.

Mr. HUGHES. Thank you.

I have a number of housekeeping chores.

First, you alluded to a report or some press account of a speech by a General that was the first publication that your operation was blown?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. You are referring to a speech made by General Gorman, perhaps, General Paul Gorman, to the American Chamber of Commerce in El Salvador, in which he mentioned Nicaraguan involvement in drug trafficking, June 29, 1984?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Is that about the same time frame you are referring to?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. It was General Gorman's speech?

Mr. JACOBSEN. I don't know what the general's name was, sir. I can't recall that, but that is about the general time that it did happen, and I can't recall the country that it was made in.

Mr. HUGHES. Mr. Jacobsen, Barry Seal was probably as well connected as any informant that you have ever worked?

Mr. JACOBSEN. He was probably one of the best informants that has ever been. He was well connected with every cartel member in Colombia.

Mr. HUGHES. Very seldom do you have an operative that has made 50 trips into countries or transshipment areas buy large quantities of cocaine and flying them back to this country, or for distribution in other countries—Central, South America, or particularly the United States, isn't that so?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Carlos Lehder, Ochoa, Escobar, they are the big three, would you suggest?

Mr. JACOBSEN. Yes. Pablo Escobar.

Mr. HUGHES. They are the kingpins in trafficking in South America?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Had you ever before or since, had any operative that made their way into an operation like that?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. Barry Seal had credibility and at the time you were handling him he was facing a sentence in the United States District Court, obviously trying to buy his way out of that sentence, and that is how he came to your attention, through Washington?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Did he tell you that he could bring to you Nicaraguan officials?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. That was something that evolved after the killing of the Justice Minister in Colombia and when the heat went on to the cartel officials, was it that time frame that this—brought that to your attention?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. A lot has been said about the business relationships between Seal and the cartel. I want to ask you a series of questions. You have testified that he was actually a transporter?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. He was operating transport from the cartel to this country large amounts of cocaine?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. That was his responsibility and that is what he was paid for?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Large sums of money?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Anywhere between \$2500 and \$5000 a load?

Mr. JACOBSEN. Mr. Seal, his agreement with the cartel was that he would receive \$1 million for every load that he brought in.

Mr. HUGHES. Was it typical operating procedure for the cartel at that time to maintain its own transportation and distribution network rather than to sell the cocaine FOB, Colombia?

Mr. JACOBSEN. No, sir. The cartel always hires transporters.

Mr. HUGHES. Seal maintained that Bustamante and Bates were hired by the cartel. That is your testimony?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. And that Bustamante in particular was a fairly important figure in the cartel operations on the distribution side in this country?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. All right. He described Bustamante as being a United States distributor and had considerable responsibility in money management as well as the distribution end?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Bustamante and Bates claim—and we have talked to them in some detail—that they were employees of Seal. Did you realize that?

Mr. JACOBSEN. I heard that, yes, sir.

Mr. HUGHES. Well, Bustamante at the time, and today, barely speaks English?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. You know that as a fact. Is it possible that Bustamante wasn't as high in the cartel as Seal tried to lead you to believe?

Mr. JACOBSEN. No sir. Through our DEA investigation we found out, we determined that Bustamante was representing Ochoa. We witnessed numerous occasions when Bustamante delivered huge sums of money to Seal. If Seal would have been a bug of Bustamante, it would have been the other way around. Bustamante would provide money for all the expenses of the operation, fuel, radios. Anything Mr. Seal wanted Bustamante gave him money for.

Mr. HUGHES. Let me ask you a question. When Bustamante was busted—and he is serving 40 years as you have testified—what kind of assets did he have?

Mr. JACOBSEN. Mr. Bustamante at the time of his arrest, was living in a rented house in Coral Gables, Florida. The only assets he had were vehicles, which we seized.

Mr. HUGHES. He had virtually nothing except conveyances?

Mr. JACOBSEN. Right.

Mr. HUGHES. Mr. Seal, when he was assassinated in 1985, what kind of assets did he have?

Mr. JACOBSEN. Mr. Seal owned a lot of things, is what he used to say. He owned a lot of aircraft. He owned a lot of property.

Mr. HUGHES. Are you familiar with the Internal Revenue Service levy that they made?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. What was the dimension of that, how much? Does the Internal Revenue claim that Barry Seal owed the United States Government at the time of his assassination and that his estate now owes?

Mr. JACOBSEN. I think, and this is just an estimate, I think it is around \$28 million.

Mr. HUGHES. Twenty-eight million dollars is the figure I had in mind. Twenty-eight million.

Mr. JACOBSEN. Yes.

Mr. HUGHES. Now, Bustamante always delivered the money. In fact, Seal would tell you that Bustamante was going to make a delivery of \$70,000 or \$80,000 and he always would do it in \$70, \$80,000 lots most of the time, except for the \$200,000 delivery or the \$450,000 delivery that was made on the last trip. Isn't that so? Bustamante made the delivery?

Mr. JACOBSEN. Yes.

Mr. HUGHES. Seal would tell you about it, however?

Mr. JACOBSEN. Seal would tell us about it and we would perform surveillance on the deliveries.

Mr. HUGHES. In other words, you would watch the actual delivery?

Mr. JACOBSEN. Yes.

Mr. HUGHES. You didn't know the source of the money however?

Mr. JACOBSEN. Well, we watched Bustamante deliver it.

Mr. HUGHES. But you didn't know where Bustamante received the money?

Mr. JACOBSEN. No.

Mr. HUGHES. You didn't have any stakeout on Bustamante at that time?

Mr. JACOBSEN. No.

Mr. HUGHES. Or tried to track his whereabouts?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. Bustamante tells us that the money that he delivered, Seal gave it to him to deliver so that you would see it.

Mr. JACOBSEN. That is what Mr. Bustamante said. He pled guilty in Federal Court to the charges, so apparently they were true.

Mr. HUGHES. Mr. Bates, who was one of his accomplices was an addict, was he not? He had a serious cocaine problem?

Mr. JACOBSEN. Mr. Bates on and off through the period, yes. He did snort some cocaine, yes, sir.

Mr. HUGHES. Let me move to Frederico Vaughn. Your testimony is that Frederico Vaughn was a mid-level employee of the Sandinista Government, in the Department of Agriculture or one of the departments. Had you heard of Frederico Vaughn before his name was first suggested by Barry Seal?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. After this matter was blown did you have any occasion to learn any more about Frederico Vaughn?

Mr. JACOBSEN. No, sir. As far as we knew, Frederico Vaughn disappeared.

Mr. HUGHES. Once the largest case you have ever worked, an opportunity to get into the high echelon of the minion cartel of Colombia, probably the largest cocaine cartel in the entire world, the one that is dumping literally thousands, tens of thousands of kilos of cocaine into this country, once that was blown, did you make an effort to investigate the leak that blew the case?

Mr. JACOBSEN. You have got to understand I am at the lowest level of the DEA. I was a street agent.

Mr. HUGHES. I understand that.

Mr. JACOBSEN. We were very upset about it, yes sir. We made some inquiries. We asked that some inquiries be made, and I am sure they were made, but I wasn't advised of anything.

Mr. HUGHES. Well, like you, I served a lot of years in law enforcement. I would suspect that the first thing you would want to do would be to find out who blew this case.

Mr. JACOBSEN. Exactly, yes sir.

Mr. HUGHES. Any questions? I suspect you were outraged, weren't you?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Does that describe how you felt about the fact—

Mr. JACOBSEN. To say the least.

Mr. HUGHES [continuing]. About this case. The most promising case that you ever worked was blown by leaks?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. And this followed CIA's overtures to you that they should put this out publicly?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Were they asking you if they could do it—the CIA?

Mr. JACOBSEN. No, sir, they weren't.

Mr. HUGHES. They were telling you they were going to put it out?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Isn't that what they did? They told you they were going to put it out?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Did you tell them what that meant to Barry Seal and this whole operation?

Mr. JACOBSEN. Yes, I did. That is why they stopped it temporarily.

Mr. HUGHES. Frederico Vaughn, I have a hard time getting a line on Frederico Vaughn. The Sandinistas, they don't want to talk about Frederico Vaughn. I don't know. Maybe they don't know anything. The law enforcement community didn't pursue any investigation of Frederico Vaughn. Now, you know that there were a number of telephone calls to Frederico Vaughn because you taped them. You know his voice, you know his mannerisms, is that not so?

Mr. JACOBSEN. I know his voice. That was all.

Mr. HUGHES. Well, you got a feel for Frederico Vaughn because you taped a lot of calls, I assume?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. You had the telephone number, as a matter of fact, where the calls were made. Five digit number in Managua.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Did you make an effort to call that telephone number yourself?

Mr. JACOBSEN. After the disclosure? Yes, sir.

Mr. HUGHES. The only evidence that you have seen about Frederico Vaughn's identity is what Barry Seal told you. Isn't that so?

Mr. JACOBSEN. What Barry Seal and the photographs—

Mr. HUGHES. Yes, and the circumstances. The fact he was at an airstrip in Managua which you have been able to identify is at the airport?

Mr. JACOBSEN. There are other things. Mr. Vaughn has some relatives in the United States that we identified.

Mr. HUGHES. Has a cousin?

Mr. JACOBSEN. Pardon me?

Mr. HUGHES. Has a cousin?

Mr. JACOBSEN. A brother.

Mr. HUGHES. A brother?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. He has a relative that is a banker in the United States?

Mr. JACOBSEN. I don't know that.

Mr. HUGHES. Well, our staff recently called the number in Managua, that same number. In fact, we have had investigators call it a number of times. We were successful in placing a call and talked to somebody at that number and we were told by a domestic employee who answered the phone, that we had reached the residence of the member of the United States Embassy in Managua. A check with the Embassy confirmed that the individual was a member of the United States Embassy staff at that number. He was one of the persons expelled from Nicaragua just a few weeks ago, the same individual.

We have done some checking on the telephone number since then. Our embassy says that the house in question and the phone number in question was taken over by the embassy in 1985. We were not able to ascertain who the number was assigned to in June and July of '84, but we are advised by the husband of the owner

that that residence in question has been continuously rented by the United States Embassy or other foreign missions since 1981. Did you verify any of these facts yourself?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. To your knowledge did Frederico Vaughn have any affiliation with the United States Embassy in 1984?

Mr. JACOBSEN. To our knowledge, Frederico Vaughn had no association with the Embassy or anything related to the United States Government.

Mr. HUGHES. I have some other questions along this line, but I am going to recognize the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, before I do any questioning in the order of the turns, because he has been here a long time, and has other commitments, I would like to yield my initial time to Mr. Lungren.

Mr. LUNGREN. Thank you very much.

Thank you, Mr. Chairman.

It has been very interesting and intriguing testimony. I salute our witness for the work he has done and continues to do.

Based on your knowledge and information, prior to the setting up of the operation in Managua, that is, identifying a field that they could use in Nicaragua and establishing laboratories in Nicaragua, was the cartel utilizing Nicaragua before that time with laboratories or as a transshipment point?

Mr. JACOBSEN. My understanding was that the cartel had just obtained this strip and had just begun their negotiations for this strip, and had just begun to move their operations from Colombia to Nicaragua. They were establishing all their laboratories and everything.

Mr. LUNGREN. Following the revelation of the investigation and the arrests that were—and warrants that were served, to your information and knowledge, did this plan continue?

Mr. JACOBSEN. After the disclosure?

Mr. LUNGREN. Right.

Mr. JACOBSEN. I really do not know. After the whole thing was disclosed, we received no more information or intelligence. Personally, I never did so. I have no way of knowing.

Mr. LUNGREN. You have no way to comment on whether or not the culmination of this case resulted in stopping this operation from going forward that was just beginning?

Mr. JACOBSEN. No, sir.

Mr. LUNGREN. You have indicated Mr. Seal was very essential to this whole case, correct?

Mr. JACOBSEN. Yes, sir.

Mr. LUNGREN. And that without his testimony, at least in your opinion, it would be difficult to put the case together?

Mr. JACOBSEN. Absolutely. Mr. Seal was——

Mr. LUNGREN. Indispensable witness?

Mr. JACOBSEN. Absolutely. Yes, sir.

Mr. LUNGREN. I would like to go back to the point when the attorney was hired for \$70,000 by the cartel to run a check on Mr. Seal. Did that occur prior to the time that he returned to Managua?

Mr. JACOBSEN. Yes.

Mr. LUNGREN. As the agent in charge, were you aware of it at that time?

Mr. JACOBSEN. Yes.

Mr. LUNGREN. Did that raise concerns in your mind with respect to their suspicions regarding Mr. Seal?

Mr. JACOBSEN. Absolutely. And we wouldn't have let him go if we hadn't placed the blame on somebody else and we were sure in our own minds that Mr. Seal's safety wasn't in jeopardy.

Mr. LUNGREN. You weren't sure?

Mr. JACOBSEN. We were sure Mr. Seal's safety and life weren't in any jeopardy.

Mr. LUNGREN. There was a decision you said by the U.S. Attorney not to go back for a second load and it was expressed to you that could you get Mr. Seal back. Was that right?

Mr. JACOBSEN. Well, we went back but we just didn't pick up the loads.

Mr. LUNGREN. Right. For what purpose was it expressed to you by the U.S. Attorney?

Mr. JACOBSEN. Like I previously stated, that they were afraid if we brought back another additional 900 kilos of cocaine that the subsequent seizure of it would have blown the case.

Mr. LUNGREN. Was that a reasonable concern?

Mr. JACOBSEN. Sure. Yes, sir.

Mr. LUNGREN. There was comment made that the case was blown by the statement made by General Gorman, who might as well be identified. He was Head of the Southern Command, I believe at the time, head of all American Forces in Central and South America. Yet, as I read the chronology that was provided us by staff, his statement was made in a speech given on June 29, 1984, and Mr. Seal returned to Nicaragua on July 7, 1984. If the case were blown as some have expressed it, how could you dare let Mr. Seal go back?

Mr. JACOBSEN. It wasn't really blown until it came out in the newspaper.

Mr. LUNGREN. So whatever the impact of the General's statement, it did not blow the case in your mind, at that point?

Mr. JACOBSEN. No, sir.

Mr. LUNGREN. Do you know exactly what the General said, by the way?

Mr. JACOBSEN. It has been so long I can't really recall.

Mr. LUNGREN. I was informed that it was a one sentence in he speech where he mentioned that he believed there was Nicaraguan involvement in drug smuggling. Do you know whether it was more extensive than that?

Mr. JACOBSEN. I don't recall the speech, sir.

Mr. LUNGREN. In a deposition taken of Mr. Caffrey, when he was asked the mission of Seal on the second flight—July 7th—he indicated that it was to make a payment for the load that came in, to bring down those commodities and keep his credibility level up, to explore the possibility of trying possibly to sucker one of these guys out so we could arrest him, maybe to fly them out to see if we could get more information on the lab that was down there, and then he said:

"We knew at that point in time we were on borrowed time in this case." I mean, we could not continue to do this. I mean, ostensibly its purpose and utility value and service to these guys was to fly drugs out of whether it was going to be Medellin or Colombia or whether it was going to be out of Nicaragua. We were not going to be able to continue to bring out large amounts like this controlled, delivering them to consumers, because we are not going to let the drugs go into the traffic. That is not the way we operate and keep his credibility level up. I mean, how many times can you do this without them saying hey, every time this guy flies out a load in from us, people get arrested behind him."

Would you agree or disagree with that?

Mr. JACOBSEN. I agree with that. We knew that we were limited on our time but things were really progressing so quickly that we wanted to continue it on.

Mr. LUNGREN. Now, it was your hope, as you say, if you could continue the case, to be able to identify certain traffic routes from other countries in Central America, correct, and South America?

Mr. JACOBSEN. Yes, sir.

Mr. LUNGREN. And also that at one time Mr. Seal was going to try to get everybody in one spot so they could be arrested?

Mr. JACOBSEN. Yes, sir.

Mr. LUNGREN. That was your hope?

Mr. JACOBSEN. Yes, sir.

Mr. LUNGREN. Do you know how often we have been able to consummate a hope like that dealing with foreign drug dealers in foreign countries? Let me put it this way. If he were able to get them all in one place in Nicaragua, you certainly didn't have any idea of arresting them in Nicaragua and having them extradited to the United States, did you?

Mr. JACOBSEN. No, sir. We were going to try to lure them to a neutral country where we could arrest them.

Mr. LUNGREN. But as you mentioned, if somehow before you did that, Mr. Seal was lost, you lost the original case, correct?

Mr. JACOBSEN. Yes.

Mr. LUNGREN. Do you have any estimate as to the amount of cocaine that was intended to be sent to the United States with the use of laboratories in Nicaragua by this cartel?

Mr. JACOBSEN. Yes, sir.

Mr. LUNGREN. Can you give us those amounts?

Mr. JACOBSEN. They approached Mr. Seal and they wanted him to fly 18,000 pounds of base in I think it was either a week or every two weeks?

Mr. LUNGREN. And then have that produce in the process in the laboratories and then sent on to the United States?

Mr. JACOBSEN. And flown to the Yucatan to his 40,000 acre ranch and there it would be transported into the United States in smaller loads.

Mr. LUNGREN. And that was not done, to your knowledge?

Mr. JACOBSEN. No, sir. That was the next step we were going to do. Mr. Seal had the C-123 aircraft. He can carry that much stuff.

Mr. LUNGREN. Thank you very much.

Thank you, Mr. Chairman.

Mr. HUGHES. I just have a few other questions, Mr. Jacobsen. Just to pick up a little bit on this last trip on July 6th, I believe it is—Barry Seal made a trip on July 7, 1984, and he took along \$1.5 million on that trip, is that correct?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. And you saw that money, photographed it. Did you mark it?

Mr. JACOBSEN. No.

Mr. HUGHES. Was there any particular reason why it wasn't marked?

Mr. JACOBSEN. Well, you are sending Mr. Seal into a communist country. You can't chance putting Mr. Seal's life in danger by marking money.

Mr. HUGHES. I understand. That is what I wanted to bring out. That is why the money wasn't marked?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. It was concern over Mr. Seal in the event somebody started examining the bills. It was important not to have any indication that somebody was tracking what he was doing?

Mr. JACOBSEN. Right.

Mr. HUGHES. Now, on that cargo plane, that C-123 that flew into Managua that day, you had a carload of Sears Roebuck consumer goods as well as the money I gather, on the plane?

Mr. JACOBSEN. He packed that airplane with about between \$50 and \$100,000 worth of outboard motors, bicycles—

Mr. HUGHES. When he was airborne, moving into Managua, it was then that the decision was made not to bring any of the cocaine back into this country?

Mr. JACOBSEN. The decision was made before he left.

Mr. HUGHES. Before he left?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. And the decision was made because they were afraid that that might in fact present problems when he got back with that load?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Now, it also presents a problem because when you leave that size load back in Managua you know that is going to find its way into this country?

Mr. JACOBSEN. That is my exact sentiment, sir.

Mr. HUGHES. Isn't that a concern to you?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. So where we have Barry Seal, who is your concern, he has been compromised, but you think he is still on target because the Gorman speech didn't get that much play in the newspaper?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. It was a general reference to narcotics trafficking by the Sandinistas and so he wasn't blown at that point?

Mr. JACOBSEN. No.

Mr. HUGHES. But it was decided that he would land, hand over to the cartel a million and a half dollars. He stayed overnight apparently at Escobar's mansion and flew back without the contraband?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. There was no question that once Barry Seal's involvement with the DEA in acting as a confidential informant was made public, his life wasn't worth two cents.

Mr. JACOBSEN. That's right.

Mr. HUGHES. Ultimately that proved to be the case because he was assassinated by, what, three people?

Mr. JACOBSEN. Yes, he was.

Mr. HUGHES. Three people.

Mr. JACOBSEN. Colombians.

Mr. HUGHES. Three Colombian nationals.

Mr. JACOBSEN. Yes.

Mr. HUGHES. So in addition to blowing probably the biggest case you have ever worked involving obviously thousands of kilos of cocaine, it put Barry Seal's life in direct jeopardy.

Mr. JACOBSEN. Yes, sir, it did.

Mr. HUGHES. And led to his death.

Now, as a matter of fact, you wanted to bring that cocaine back because you didn't want to leave it there. There are all kinds of additional cover stories that could have covered because Barry Seal had credibility like nobody else. Barry Seal made 50 trips for this cartel and was never interrupted, never busted for those trips.

In fact, he was finally busted for a meth charge, so he had credibility. He could deliver. He was a pilot. He had the air strips. He had the airplanes. He had the contacts. In your judgment you could have provided a cover story for seizing that contraband.

Mr. JACOBSEN. We would have tried.

Mr. HUGHES. But even if that were not the case, the whole idea was to bring Barry Seal back without the contraband so you weren't put in that dilemma so that you could continue to work the case, so you could possibly get Escobar or Ochoa and others to Panama or some other country where we could arrest them.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. And that was the ultimate function of this super stay that you were managing, isn't that so?

Mr. JACOBSEN. It is also to arrest principal violators in any case. In this case it was to get these guys where we could arrest them, get them out of Colombia to some country where we can put our hands on them.

Mr. HUGHES. That was impossible once the case was leaked.

Mr. JACOBSEN. Once leaked it was impossible, yes.

Mr. HUGHES. That was the end of the case, that was the end of the potential arrest of Escobar and Ochoa and others.

Mr. JACOBSEN. We did arrest Jorge Ochoa in Spain about a year later.

Mr. HUGHES. But that was through other means, not because of this investigation. He is back in Colombia, is he not?

Mr. JACOBSEN. He is, yes.

Mr. HUGHES. So we have never gotten him?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. In addition to that, Barry Seal was killed?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. That was the net result of a leak to the press. It was a disaster.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. The gentleman from Florida?

Mr. McCOLLUM. Thank you, Mr. Chairman. I would like to see if we can't go through just a few things. You have had a long morning, and we are about to wrap up with you. We really appreciate your coming and spending this time with us. One thing that is not really testimony you gave, but in comments to, I think, amplify the research of this committee and needs to be put on the record in light of the comments made earlier about the telephone number that was involved at the U.S. Embassy there in Managua.

I don't think the record of our investigation shows that there was a telephone connection between those two. In terms of the U.S. Embassy. When Mr. Vaughn was contacted, if you recall, it was his telephone number we were talking with. What our investigators found is that at some time after this call took place in 1985, the U.S. Embassy did rent the home in which a same telephone number as Mr. Vaughn's was later by our committee found to ring.

It could, of course, be that the Nicaraguan government had given the telephone number of Mr. Vaughn to somebody at our embassy at a later date or at that home, could it not?

Mr. JACOBSEN. Yes.

Mr. McCOLLUM. Also, our investigators discovered during the time in question in 1984, that particular home, if it indeed had the same telephone number at that time in 1984 and that Mr. Vaughn indeed could be called at that number, that particular home was rented to someone else in the United States Embassy.

I believe it was the United Nations, although at one time the French Embassy also rented that home. I don't think it is fair to tie in necessarily, in fact I think it is quite unfair to even attempt to tie in the U.S. Embassy to Mr. Vaughn's telephone number. You have in your testimony here earlier today said you have no knowledge of where that telephone number actually was, in whose home or who owned it or anything else about it, Mr. Vaughn's number; is that not correct?

Mr. JACOBSEN. I couldn't remember whether it was his business or his home, no, sir.

Mr. McCOLLUM. Now, insofar as this issue of the newspaper article is concerned, I know from your testimony that you said that the CIA had expressed to you at some point, and I assume you are talking now about field agents of the CIA with whom you were working, is that correct?

Mr. JACOBSEN. That is correct, yes, sir.

Mr. McCOLLUM. You didn't have direct contact with the Washington or the Langley office up here with the superiors of the CIA on this, did you?

Mr. JACOBSEN. No.

Mr. McCOLLUM. All right. They had expressed to you these operatives in the field, some interest in perhaps releasing some photographs or some information to the media, but you said that that got stopped at that time; is that not correct?

Mr. JACOBSEN. Yes.

Mr. McCOLLUM. And that did not occur at that time, to your knowledge, is that correct?

Mr. JACOBSEN. Not that I know of, no.

Mr. McCOLLUM. At some point after General Gorman's speech, which as you said didn't blow the case, the speech didn't, a Washington newspaper did print—in fact they had the story for a few days before they printed it, to your knowledge, a story that did indeed stop the case.

You do not know, however, from your own knowledge what that source was, where they got the information, who gave it to them. You don't have any actual knowledge of that, do you?

Mr. JACOBSEN. No.

Mr. McCOLLUM. What I am getting at is that we know the Pentagon knew about this because they had worked on your plane. What we also know is the Pentagon knew about it because General Gorman gave a talk about it. It could have come from the Pentagon as well as from the CIA, could it not have, the story to the press?

Mr. HUGHES. Mr. Jacobsen, do you want to clarify an answer to a question concerning your knowledge of the leak?

Mr. JACOBSEN. Yes.

Mr. McCOLLUM. If you would, we would appreciate it if you would do it.

The record will reflect Mr. Jacobsen is consulting with his counsel since the media and since the people in the audience can't see this due to the circumstances of protecting the witness.

Do you wish to contribute any further enlightenment to what you have already said about your knowledge of the leak to the newspapers?

Mr. FRIEDLAND. Can you please repeat the question?

Mr. McCOLLUM. I have gone through a process of asking whether or not this could not—to the best of his knowledge, couldn't this also have equally have been attributed to somebody at the Pentagon giving the information to the newspapers.

That was the first thing I asked and there was a discussion. The Chairman asked if your client wanted to give any more information as to his knowledge of the source of the leak. So either question would be appropriate to respond to, or I can rephrase it.

Mr. JACOBSEN. I have no information that it came from the Pentagon, no, sir.

Mr. McCOLLUM. You don't have any information as to who it came from either, other than your speculation based on conversations with the CIA operatives sometime before the appearance of the article, is that correct?

Mr. JACOBSEN. No, sir.

Mr. McCOLLUM. And as far as that is concerned, Mr. Jacobsen, there are a lot of people at the DEA higher in authority than you, including people in the home office in Washington who knew a lot about this case, and while we don't like to think that, somebody up the chain of command could have leaked this without your knowledge, could they not have, in the DEA?

Mr. JACOBSEN. From my experience working this investigation, the people in DEA headquarters gave full support to this thing and were behind this investigation 100 percent. I don't feel that anybody in DEA would leak this case in any way.

Mr. McCOLLUM. I understand your feelings about why you don't think they would, but the fact is, just because you don't know who

did, people who had access to the knowledge, and I wanted to make a point, people who had access to the knowledge that could have gone to that newspaper were not just CIA operatives.

There were the CIA, Pentagon folks, DEA folks, there was Barry Seal himself. It may be unlikely in some cases, but they were. The only point I want to make is, from the testimony there has not been an indication that we can grasp precisely, and in the Iran Contra hearings I participated in, there were over a hundred leaks out of that committee itself.

Unfortunately, those things do happen. I don't like them and it didn't help, I'm sure, the progress of this case. Now, let's go to the case for a—

Mr. JACOBSEN. Can I answer your question?

Mr. McCOLLUM. If you have something further to answer.

Mr. JACOBSEN. Yes, I got something to answer.

First of all, no DEA agent or personnel ever approached me or anybody concerned with this investigation about leaking it. The CIA is—when they got ahold of this thing, they are the ones that wanted to leak this thing. No DEA personnel ever even insinuated they wanted to go to the news with this, ever.

Mr. McCOLLUM. I understand why you are hypothesizing, but it is a hypothesis based on that one contact you had sometime prior to this occurring. In the interval in between General Gorman from the Pentagon made a statement indicating his knowledge of it and Pentagon people knew about it, DEA people knew and Barry Seal knew about it.

I want to go to another area of questioning. With regard to the question of what was going to happen in this case, I am very concerned about all of the implications that this case was "blown." The term, "blown" is subject to quite a bit of interpretation.

It is a subjective opinion. There is no question the case came to conclusion and had to stop when the newspapers printed the article. The term, "blown," indicates that there was more that was there, that you really didn't get the case you wanted to get. You already testified in answer to counsel's questions that quite a number of people were indicted. And there is a great discrepancy apparently from what you said between your judgment about what was going to happen and some of the people even superior to you in DEA.

Next, from my understanding of the record, as I read it, and heard you say this morning and in fact I think you testified, if I am not mistaken, that Barry Seal was not going to carry more than one more load down there. Am I correct, that you did testify to that earlier today?

Mr. JACOBSEN. Barry Seal was supposed to start carrying paste.

Mr. McCOLLUM. But you said there was not more than one or two more loads. I believe you said only one more load that he was likely to have carried under the circumstances, if the case had not come to conclusion because of the newspaper article.

Mr. JACOBSEN. Let me say this: You might have understood it that way, but when Mr. Seal brought the first load in, Pablo Escobar wanted him back down there because they had 900 ki's more. If he brought that one in, they might have had another one for him. It wasn't one more load. You know it was a series of loads.

Mr. McCOLLUM. Well, the fact remains that there are people above you, including the top person at the Justice—persons involved in this, in the U.S. Attorney's office, Mr. Gregorie, who thought the case had been made and had made an indication that he did not want to go any further, that he thought it was inappropriate to send Mr. Seal back down for anything more.

He thought that prior to that newspaper article being printed. I think that is clear in the record from today's evidence. Also, I am concerned about the picture being painted about Mr. Seal being exposed to all of these things. As you said, the cartel was going to expose him, too. You undoubtedly were told, I assume that is where you got the idea, that if this case had gone on, that Mr. Seal, Barry Seal would have been shown all kinds of things that were not properties of the cartel and so forth.

Is that not—was Barry Seal not your source of that? Isn't that his word that you are taking on this, that he was going to be shown these things by the cartel leadership?

Mr. JACOBSEN. Yes.

Mr. McCOLLUM. And, yet, you have also testified to us that at some point there was some \$70,000 that by the cartel would investigate Barry Seal after it was found that this load was not delivered and in that process of the load being left behind down there in June, after that occurred, they found out for the first time his real name.

They found out in that investigation that he had been convicted and that he was out in a status of still being considered for his criminal activity. And they didn't know that before. I would think anybody reasonably bright running drugs in a major cartel like that would have been darned suspicious at that point of Barry Seal. So I can't imagine, even though you might have wished it, Mr. Jacobsen, that the cartel leadership, if this case had continued and the newspaper article hadn't been printed, I can't imagine that Barry Seal actually would have the opportunity to be given more information than he was.

And I doubt, seriously had gotten more than one more load and I don't think they would have been stupid enough not to suspect him being an informant and to bring themselves to a table of a central location to all be arrested as you hoped. My whole point in making this is to simply say, from listening to what you said, I can understand how you wanted to see this case continue and you were frustrated about it and extremely unhappy about somebody going to the press with this, whoever it was for whatever motive, but the fact remains in what I have heard today, that it still is not a case that was truly blown.

It was a case that was already blown before we got to that point. Thank you, Mr. Chairman.

Mr. HUGHES. I have just a couple other questions relative to Frederico Vaughn's telephone number. In most South American countries, telephones are hard to come by, aren't they, difficult to get service?

Mr. JACOBSEN. I don't know how it is in Nicaragua at all. I can't answer your question.

Mr. HUGHES. You do not know about Nicaragua?

Mr. JACOBSEN. No, sir.

Mr. HUGHES. How about other South American countries?

Mr. JACOBSEN. Telephone service is, you know, they do—maybe the fourth of what ours is. It is frequently out of service. It is busy, you know, you can't get into the countries a lot of times.

Mr. HUGHES. Moving on to the last flight, there is no question, but that the last flight made into Managua where \$1.5 million was delivered along with consumer goods and contraband left behind, the cocaine left behind, that that was under pressure. You were on notice when that flight left that there were some indications at that point that the whole operation would be made public?

Mr. JACOBSEN. Well, we were hoping it wouldn't be or be delayed.

Mr. HUGHES. Is it fair to say that the U.S. Attorney did not want the flight to go?

Mr. JACOBSEN. Oh, yeah, he didn't want it to go.

Mr. HUGHES. DEA did want it to go.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Because DEA felt that the case was too important and you had not achieved really what was set out in the sting operation.

Mr. JACOBSEN. And in fact when he went down there and delivered the money and delivered the toys to him, Barry Seal told Pablo Escobar, "Hey, I have got a red light on the way down here. There is something wrong. Red light in the instrument panel and there is something wrong with this trip."

Mr. HUGHES. That was a signal to him.

Mr. JACOBSEN. Right. Pablo said, "Hey, great. You did me a big favor, not getting my dope seized." So really he made himself even look better in the cartel's eyes. You know, we were looking real good at that point.

Mr. HUGHES. He delivered the money?

Mr. JACOBSEN. Yes.

Mr. HUGHES. Which gave him credibility?

Mr. JACOBSEN. Yes.

Mr. HUGHES. He had a C-123 that could move a lot of dope around?

Mr. JACOBSEN. Yes.

Mr. HUGHES. In fact your testimony is that they talked in terms of 18,000 kilos.

Mr. JACOBSEN. Kilos of paste.

Mr. HUGHES. Of Paste that they wanted to move. They wanted to use the C-123 to do that?

Mr. JACOBSEN. Yes.

Mr. HUGHES. This is a huge cargo plane with a back that opens up and you can drive right into the cargo plane?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Now, who had knowledge of this operation? Walk me through it. Who had knowledge? Drug Enforcement Administration had knowledge of the operation.

Mr. JACOBSEN. Pentagon.

Mr. HUGHES. Do you know General Gorman had knowledge because he was believed, right, just a few days before he made the speech?

Mr. JACOBSEN. CIA.

Mr. HUGHES. CIA. Who else had knowledge?

Mr. JACOBSEN. That is all that I knew of. Air Force.

Mr. HUGHES. Well, the Air Force just knew that they were retrofitting a plane. They didn't have knowledge of the operation, did they?

Mr. JACOBSEN. No.

Mr. HUGHES. All they knew, they were making some repairs, retrofitting it for long flights. And, of course, the CIA retrofitted it for cameras.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. So the CIA, DEA and what else?

Mr. JACOBSEN. That is about it.

Mr. HUGHES. General Gorman received his briefing from the White House.

Mr. JACOBSEN. I don't know where he got it.

Mr. HUGHES. I have no further questions.

The gentleman from Pennsylvania.

Mr. GEKAS. I thank the Chair. At the outset of your testimony, I got the impression that after Seal had made an inquiry of the Vice-President's Task Force and was in fact rejected or he didn't have any success in convincing them of any role that he could play, that you went ahead on your own or DEA, and then after you report back to Washington, the CIA came into the picture; is that correct?

Mr. JACOBSEN. No, sir.

Mr. GEKAS. No?

Mr. JACOBSEN. Mr. Seal went to Washington IMBIS in Washington. He talked to two DEA agents in D.C. who called DEA Miami, my group. They arranged for me to interview Seal.

Mr. GEKAS. I understand that. So that series of events is fixed. DEA got into it first, shall we say, with Seal.

Mr. JACOBSEN. Yes, sir.

Mr. GEKAS. And then after your initial report of whether or not it was feasible or however you report it back after your initial ideas as to how you could use Seal, then the CIA came into the picture, is that correct?

Mr. JACOBSEN. No, sir. DEA initiated the investigation and proceeded with it. After Mr. Seal's trip to Medellin, Colombia, where Pablo Escobar asked him to travel to Managua, Mr. Seal came back. I wrote the report about two weeks later; that is when the CIA became involved.

Mr. GEKAS. In other words, your report was to the effect that you became satisfied that Seal knew what he was talking about and the thing was doable for future purposes.

Mr. JACOBSEN. Every time Mr. Seal came back from Colombia or Panama or had a contact with any traffickers, I would write a report on it and this report would be signed by my supervisor and forwarded to Washington.

Mr. GEKAS. I understand. So after your report in which you felt or the report indicated that perhaps something could work here, that you felt that Seal was trustworthy for your purposes, then the CIA, following up on that report, came to talk to you.

Mr. JACOBSEN. Yes, sir.

Mr. GEKAS. Then the next thing you said was, and this is what I want to clarify. I think you said that you got the impression that or in answer to perhaps counsel's question, that the CIA was will-

ing or at least indicated to you that they might help in the operation; is that correct?

Mr. JACOBSEN. Yes, sir.

Mr. GEKAS. To what extent would you have or did you then bring them in further or rely on them to help you with your operation?

Mr. JACOBSEN. I really didn't rely on them for anything. I was ordered to keep them advised. I kept them advised. When we got the C-123K, we needed to have the aircraft wired for cameras. They volunteered. They had the sophistication to put the cameras on, so we utilized their resources.

Mr. GEKAS. So they did at least at the outset cooperate in the request that you made for assistance in your operation?

Mr. JACOBSEN. Yes, sir.

Mr. GEKAS. Did there come a point then in all of this where you felt that they abandoned the aid that they were giving to DEA or that they, to use the word, "betrayed," or somehow hurt your investigation, did there come a point where you believed that that occurred?

Mr. JACOBSEN. No, sir, because I never really never have known who leaked it. As far as I was concerned, the CIA assisted DEA in the investigation, and provided a very good service to us.

Mr. GEKAS. But you—do you not ascribe the leak to the CIA?

Mr. JACOBSEN. All I can say is that I was told that Langley wanted to leak the investigation and the pictures to the press, and that was relayed to me in Miami. When that happened, I notified my supervisors, who said that they stopped it.

Mr. GEKAS. So then there is nothing except your feeling about how the leak occurred from beginning to end that showed anything, as far as you were concerned, that showed that the CIA was working at cross purposes with you or hindering our possibilities of making this investigation work?

Mr. JACOBSEN. No, sir. I don't think I have ever said that.

Mr. GEKAS. You never said that, so you—

Mr. JACOBSEN. I don't think I ever mentioned that the CIA hindered this in any way.

Mr. GEKAS. No, I am trying to straighten out my—the conclusions I am to draw in this eventually. The other thing that struck me in this last dialogue that you had with the Chairman about when you came to realize, if you did, that Barry Seal was going to be of no more utility to you, or that he was on borrowed time as others were expressing it, were you and your superiors in agreement at that time as to whether there was one more flight possible or one more operation possible after that, after that first flight?

Mr. JACOBSEN. At the time the story was leaked, Mr. Seal was on his way to Mexico to meet with some of the cartel members and look at the 40,000-acre ranch.

Mr. GEKAS. I understand, but that was when you decided to do one more flight, isn't that correct? You had—

Mr. JACOBSEN. Well, we had already done the one second flight.

Mr. GEKAS. I am saying at that point was there any disagreement between you and your superiors as to whether he should go forward anymore or was that enough? Did anybody decide that that was enough, that you couldn't risk Seal anymore?

Mr. JACOBSEN. No, it wasn't—it was never discussed again because it never arose again after Mr. Seal came back and left the 900 kilos in Managua, it was never discussed for him to go back to Managua again. They contacted him, wanted him to do something else.

Mr. GEKAS. I think I want to get back to the first trip.

Mr. JACOBSEN. Okay.

Mr. GEKAS. After the first trip, did anybody decide up and down the line, DEA linkage, that that should be the end of it, we can't risk Seal anymore?

Mr. JACOBSEN. No.

Mr. GEKAS. Was this supposed to continue then?

Mr. JACOBSEN. Yes.

Mr. GEKAS. Indefinitely?

Mr. JACOBSEN. Yes, sir.

Mr. GEKAS. In testimony that we have here, which Mr. Gregory elicited testimony from Mr. Caffrey, he seemed to indicate that—in fact he used that borrowed time phrase. Were you not guided by what Mr. Caffrey expressed at that time about what his feelings were about risking Seal?

Mr. JACOBSEN. I had no contact with Mr. Caffrey. Mr. Caffrey and my group supervisor, Bob Joura had the contact. I had no contact with Mr. Caffrey at all.

Mr. GEKAS. So the decisions you felt were being made, contemplated a second or a third or indefinite number of flights?

Mr. JACOBSEN. Yes.

Mr. GEKAS. Did you ever receive any—did you ever ask for any guidance as to how many times and how often to use Seal?

Mr. JACOBSEN. After the second trip, we were just going to try to get as much out of him and as much information as we could until we knew—until it was over.

Mr. GEKAS. When Mr. Caffrey says, we knew at that point in time that we were on borrowed time in the case, I mean we could not continue to do this, okay. Are you saying that that conclusion was drawn by him and never communicated to anybody else?

Mr. JACOBSEN. It wasn't communicated to me.

Mr. GEKAS. I have no further questions.

Mr. HUGHES. I have a couple more questions. The fact of the matter is that even after the last flight to Managua, Barry Seal was helping to identify assets of the cartel.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Intended for the Yucatan Peninsula. He was getting into the distribution chain, is that not correct?

Mr. JACOBSEN. That is correct.

Mr. HUGHES. He was identifying for you the parameters of the organization.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Their assets and their operatives and that is what we lost.

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. Just one other question. The only time the CIA came in is when they heard the word, "Nicaragua." Isn't that right?

Mr. JACOBSEN. Yes, sir.

Mr. HUGHES. After this case was blown, was that the last time you heard from the CIA on this case?

Mr. JACOBSEN. On this case, yes, sir.

Mr. HUGHES. Now, you hesitated about knowledge of the source of the leak. Do you have knowledge of the source of the leak?

Mr. JACOBSEN. Personal knowledge?

Mr. HUGHES. Do you have knowledge? Have you been told the source of the leak?

Mr. JACOBSEN. Okay. Let me tell you what I know.

I heard from my supervisors that the leak came from an aide in the White House.

Mr. HUGHES. I have no further questions. We are going to conclude this witness' testimony at this point. We are going to break for a half hour, come back at 2:15 this afternoon. We are going to hear from three witnesses from the Washington end.

We have heard the field end of this operation. Mr. Jacobsen was the control officer who actually operated in the field. We are going to take testimony when we return from witnesses that can give us some information relative to the Washington D.C. end.

Mr. McCOLLUM. Mr. Chairman, before we take that break, you asked that last pregnant question. Can I just have one followup on that question?

Mr. HUGHES. Sure.

Mr. McCOLLUM. Mr. Jacobsen, when did your superior tell you that he thought that the leak came from an aide in the White House in the time frame that we are talking about?

Mr. JACOBSEN. It was probably a week to two weeks after the news story broke.

Mr. McCOLLUM. And this superior was Mr. Joura?

Mr. JACOBSEN. Sir, I can't remember who it was that told me that. That is why I referred to counsel.

Mr. McCOLLUM. The last point: Did he tell you, to the best of your recollection, that the course came from an aide in the White House or what was the characterization that your superior said.

Mr. JACOBSEN. Just like that, he stated that the leak came from an aide in the White House?

Mr. McCOLLUM. That is what your superior said to you?

Mr. JACOBSEN. Yes, sir.

Mr. McCOLLUM. Thank you.

Mr. HUGHES. The subcommittee stands in recess until 2:15 p.m. Those in the audience please remove themselves so that we can ask Mr. Jacobsen to leave.

[Recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order. I apologize for the delays, but we have had a series of votes, as you know. We should be I think okay for awhile now.

I wonder if our next three witness will come forward. Mr. Ron Caffrey, Chief of the Cocaine Section in 1984 of the Drug Enforcement Administration, United States Department of Justice; Frank Monastero, former Assistant Administrator, Drug Enforcement Administration, U.S. Department of Justice; and Mr. Dave Westrate, Assistant Administrator, Drug Enforcement Administration, U.S. Department of Justice.

I welcome you here today.

Pursuant to Clause I of Rule 11 and Clause I of Rule 10, this hearing of the Subcommittee on Crime of the Committee of the Judiciary is for the purpose of investigating enforcement of our federal laws concerning narcotics, money laundering, and illegal firearms. Let the record indicate that pursuant to Clause 1 of Rule 11, and Clause 1, Rule 10, of the Rules of the House of Representatives, a copy of the rules of the Committee on the Judiciary and a copy of Clause 2 of Rule 11 of the House of Representatives, has been made available to the witnesses and located on the witness table before you.

Mr. Caffrey, Mr. Monastero, Mr. Westrate, do you understand you have a right to have counsel represent you in the course of today's proceedings? Are you accompanied by counsel?

(Witnesses responded no.)

Mr. HUGHES. I am now going to ask you to raise our right hand, place your left hands on the Bible if you could. Give me your name in full if you would please.

(Witnesses stated names and were sworn)

Mr. HUGHES. Since Mr. Caffrey basically was the operations officer heading up the cocaine desk in 1984, I thought I would begin with you, Mr. Caffrey. I wonder if, first of all, you can state the positions you have held with DEA over the years?

TESTIMONY OF RON CAFFREY, CHIEF OF THE COCAINE DESK IN 1984, DRUG ENFORCEMENT ADMINISTRATION [DEA], U.S. DEPARTMENT OF JUSTICE; FRANK MONASTERO, FORMER ASSISTANT ADMINISTRATOR, DEA; AND DAVE WESTRATE, ASSISTANT ADMINISTRATOR, DEA

Mr. CAFFREY. I have been a field agent, supervisor, middle management, special agent in charge. I have held various positions at the headquarters level in our Office of Inspection, Chief of our Domestic Enforcement, and Chief of our Cocaine Section.

Mr. HUGHES. Are you still Chief of the Cocaine Section?

Mr. CAFFREY. Special Agent in Charge in Atlanta, Georgia.

Mr. HUGHES. As Chief of the Cocaine Desk, DEA Headquarters, when did you first become aware of the Seal Nicaragua case?

Mr. CAFFREY. In the spring of 1984.

Mr. HUGHES. Did you have any personal involvement or are you aware of the CIA being asked to assist DEA?

Mr. CAFFREY. I am aware the CIA was involved with us, but specifically to track down precisely when that occurred, I couldn't do.

Mr. HUGHES. How did you first become aware of the case?

Mr. CAFFREY. In the early spring or late winter, the National Narcotics Border Interdiction System in Washington, D.C. referred Barry Seal to one of my staff coordinators in Washington. Seal was interested in cooperating with the government.

One of my staff coordinators, Frank White, interviewed him, determined in fact there was a case on him in Florida, and he was referred back to the Miami Division to cooperate with our office in Miami.

Mr. HUGHES. At what point did the Seal case become a case of major interest to your section.

Mr. CAFFREY. When he commenced making airplane visits to Latin America, Colombia and so forth, to bring drugs into the country.

Mr. HUGHES. Did DEA have information that supported Seal's reports that the Ochoa organization may be moving from Colombia into Nicaragua and other places?

Mr. CAFFREY. Independent of Seal, no. At that time my recollection is that the Colombian organization had suffered a number of setbacks in the spring of '84 and they were diversifying their operations to various places in Central America. But my recollection is that Nicaragua really surfaced through Seal.

Mr. HUGHES. Can you explain for us what the impact of the tranquil and difficult raid was in March of 1984?

Mr. CAFFREY. Approximately ten tons of cocaine were seized in the Coquita Province, which is later labeled Tranquil Landia by the Colombian National Police. The DEA furnished leads to the police that resulted in those raids.

While the availability of cocaine, the change in the availability of cocaine was incremental as a result of that, I think it did stir up some consternation among the trafficking groups. That is surmise on my part or analysis, but they were concerned. They felt out in the middle of the jungle they were safe and here one of their major complexes was raided and seized.

Mr. HUGHES. But there is no question that that raid gave them a great deal of concern. Many of the top leaders in the Medellin cartel left Colombia during that period of time?

Mr. CAFFREY. There were a series of events. That was one major event. There was an assassination made on the Minister of Justice, I believe subsequent to that, which placed a lot of law enforcement response by the Colombian Government against the traffickers. So there were a number of reasons why they were seeking other areas to operate out of.

Mr. HUGHES. The assassination of the Justice Minister in particular put a great deal of pressure on the organization?

Mr. CAFFREY. Yes.

Mr. HUGHES. Did DEA have any involvement in acquiring the C-123K air transport used by Seal, which was described earlier by Mr. Jacobsen?

Mr. CAFFREY. I am not aware we were. I think we may have assisted in paying for some retrofitting on it, but in terms of the acquisition of the aircraft, I am not familiar with that.

Mr. HUGHES. But you did assist in retrofitting it at the Air Force Base?

Mr. CAFFREY. We assisted financially with it. That was our function in Washington. We didn't really—we were not operational line control people. We were coordinators who supported investigations by gaining authorities or by providing funding.

Mr. HUGHES. Who actually made the arrangements at DEA to have that work done?

Mr. CAFFREY. I am not sure.

Mr. HUGHES. You didn't?

Mr. CAFFREY. I did not.

Mr. HUGHES. You did not participate in that?

Mr. MONASTERO. I did, Mr. Chairman.

Mr. HUGHES. Okay. Did you provide any briefings to the White House, National Security Council, the CIA, the Department of Justice, State Department or others, other agencies, prior to the time Seal left Homestead Air Force Base to pick up the cocaine in Nicaragua?

Mr. CAFFREY. I don't recall that I did. I recall that I gave a briefing after his return with the drugs and prior to his return with the money. I gave that briefing—I don't know the specific date, but I gave it to Oliver North of the National Security Council. A CIA person by the name of Dewey—his first name is Dewey—and one other person.

Mr. HUGHES. We will get into that. But at that point you had not conducted any briefings for anybody at the National Security Council or State Department?

Mr. CAFFREY. I had not, no.

Mr. HUGHES. You had not. How were you advised of the results of Seal's successful trip to pick up the cocaine?

Mr. CAFFREY. By the Miami Division. By the case agents in Miami who were running the operation.

Mr. HUGHES. Was that by teletype?

Mr. CAFFREY. Probably by phone and by teletype.

Mr. HUGHES. Did you receive the photographs that were returned on the plane the same day Seal returned from Nicaragua? That would be about the 26th of June of 1984.

Mr. CAFFREY. I don't recall the exact date when we got the photos, but it was shortly after their return—the return from Nicaragua with the drugs—that the photos were sent to me from Miami.

Mr. HUGHES. Had you received the photos from Miami before you were asked to brief the National Security Council?

Mr. CAFFREY. Yes.

Mr. HUGHES. Who asked you to brief the NSC?

Mr. CAFFREY. I believe it was Mr. Westrate or Mr. Monastero or both.

Mr. HUGHES. What was the reason given for the briefing? Do you know off hand?

Mr. CAFFREY. I don't know that they gave me a reason. I presume I knew what the reason was at the time, to ensure that our investigation was coordinated, since it was an investigation taking place in a sensitive area where we did not have an office as we normally operate.

Mr. HUGHES. But after the C-123C returned from Nicaragua with a load of cocaine, it was at that point, during that time frame, that you were then requested to brief the NSC?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. Shortly thereafter, within a few days?

Mr. CAFFREY. It occurred before the return trip on July the 7th. I just can't pin down the exact date.

Mr. HUGHES. Did you know before you went to the briefing who was going to be present?

Mr. CAFFREY. No sir.

Mr. HUGHES. Did you know what government agencies would be represented?

Mr. CAFFREY. I knew representatives from the National Security Agency would be there.

Mr. HUGHES. This was not a formal meeting of the NSC?

Mr. CAFFREY. No sir.

Mr. HUGHES. Just members from the NSC or staff?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. Were you given any instructions prior to the briefing by your superiors?

Mr. CAFFREY. No sir.

Mr. HUGHES. Were you told to withhold any information or restrict details of any particular matters?

Mr. CAFFREY. No sir, just to show them the photographs and keep them up—brief them up as to where we were at that particular point in time in the investigation.

Mr. HUGHES. Tell us what took place at the initial briefing, where it took place, and what took place, and who was present.

Mr. CAFFREY. It took place in the Executive Office Building. As I say, it occurred somewhere between the 26th—the return with the drugs—and July 7th and the departure. I went over to the building and Oliver North was there with a person from the CIA by the name of Dewey and another individual whose name escapes me. I don't recall who that was. And I displayed the photographs that we had and pointed out some of the defendants who were in the picture. It was my sense of it that they were familiar with the investigation.

Mr. HUGHES. So you sensed they already had the photographs and knew who was in the photographs?

Mr. CAFFREY. Yes. It was simply really we rehashed what our intentions would be in the investigation in the future and I did most of the talking in terms of the briefing, and during the course of it, they were asking me questions.

Mr. HUGHES. What did you say to them during that briefing? Now present apparently were Colonel North—Oliver North—with the National Security Council, a man by the name of Dewey, who was with the Central Intelligence Agency, yourself?

Mr. CAFFREY. There was also another person from the DEA with me, but I am not exactly sure who it was. It may have been one of the staff assistants for the front office.

Mr. HUGHES. So it was just those three agencies who participated in the briefing—DEA, CIA—

Mr. CAFFREY. There was also another individual that, as I say, I couldn't identify. I don't know what his affiliation was.

Mr. HUGHES. What did you say during the briefing?

Mr. CAFFREY. Well, I brought them up to speed as to where we were with the investigation in terms of the fact that the drugs were back in the United States. This was a photograph of who was in the picture. There were some questions asked of me what our intentions were generally and I told them you know, generally what we were going to attempt to do was to go back and pay for the drugs, that we had some problems to work out with the U.S. Attorney's office, who was somewhat hesitant about us going back, for justifiable reasons, but we felt it was an operational decision that we would ultimately make in the DEA.

Mr. HUGHES. Did you describe to them the significance of this operation?

Mr. CAFFREY. Yes sir. They were very well aware of the significance of it. In fact, the CIA representative, in pointing out Frederico Vaughn in the photographs, I knew that Frederico Vaughn was a defendant in a case, but frankly, I didn't really know he was, and the CIA representative told me that he was an associate of a government official, a Nicaraguan government official, which was news to me at the time.

Mr. HUGHES. That is news to me too, because the CIA tells us they don't know anything about him. But they understood the significance, that we were talking about high level traffickers?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. Escobar, Ochoa?

Mr. CAFFREY. Yes. The CIA had assisted us prior to my briefing of them. They in fact assisted us in putting cameras on the aircraft.

Mr. HUGHES. What did they say? Who carried the conversation for other agencies?

Mr. CAFFREY. Most of the conversation was Colonel North.

Mr. HUGHES. Did he conduct the meeting as such?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. What did he say during the meeting?

Mr. CAFFREY. Well, he asked us our intentions as to whether we were going to go back. He voiced his opinion that it was probably a dangerous thing to send the informant back in, particularly in light of the fact that at one point during this investigation the informant had been shot down and incarcerated, so to speak, at the airport.

Colonel North asked me hypothetically if we were going to return with the aircraft and the money, why we couldn't land the plane somewhere outside of Nicaragua, outside the airport in Managua, and maybe turn the money over to the contras.

I told him that was really out of the question because it would jeopardize our informant. It was more a hypothetical question.

Mr. HUGHES. Oliver North was asking you if it was possible for you to land the plane with the million and a half dollars outside of Managua?

Mr. CAFFREY. If it was possible for Seal to land the plane.

Mr. HUGHES. Seal to land the plane outside of Managua so that the money could be channeled to the contras?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. And you told him that that was not possible, that would jeopardize Barry Seal to begin with, and of course, that wouldn't be proper anyway, would it?

Mr. CAFFREY. Right.

Mr. HUGHES. You indicated that Oliver North expressed some concern about perhaps jeopardizing Barry Seal. Did Oliver North also suggest to you any other reasons why that operation shouldn't go off as planned?

Mr. CAFFREY. No, but he did ask me when this investigation could go public, when the information could be released, and I said certainly at some point in time it would, but we had a lot of things to finish off the investigation prior to that.

Mr. HUGHES. Isn't it a fact Oliver North wanted to go public then and there with it?

Mr. CAFFREY. I don't recall that he suggested that we go public. He asked me if we could, or when we could actually, when we go.

Mr. HUGHES. Why did he say it was important to go public with it?

Mr. CAFFREY. He did indicate to me there was a vote coming up at some point in time on an appropriations bill to fund the contras.

Mr. HUGHES. So he wanted to go public because there was a contra aid vote coming up before the Congress?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. And he told you that?

Mr. CAFFREY. He mentioned it in a conversation.

Mr. HUGHES. And what did you say to him?

Mr. CAFFREY. I told him that public disclosures would probably be made by the U.S. Attorney's Office at the proper time, but that we had a number of things that we still had to do in the investigation, namely, we had arrests to make and we had to pursue some—we had a lot of goals left in the investigation, some of which we were going to have to accomplish in a relatively short period of time.

Mr. HUGHES. Well, the fact of the matter is that Barry Seal had made tremendous inroads into this Medellin cartel, had he not?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. You were familiar with the fact that he was trusted. In fact, to your knowledge, they suggested that they wanted to take him, show him their assets, wanted to take him to the Yucatan Peninsula in Mexico, and in fact, when it appeared in the press, in the Washington Times, he was on his way?

Mr. CAFFREY. Well, some of that information developed subsequent to my briefing with Colonel North, as I recall. We did know what his capabilities were, but on the other hand, we recognized that we had taken cocaine out of the country and had delivered it to defendants in Miami, had arrested them. We had taken—we were about to go back with money to make a payoff. There is not too many times we could do that, and him to continue that way, but contemporaneous with that, we did have these other goals in the investigation.

Mr. HUGHES. How long have you been with DEA?

Mr. CAFFREY. Twenty-four years.

Mr. HUGHES. In your 24 years do you ever recall a confidential informant, an operative, working their way into those levels of a major cartel?

Mr. CAFFREY. We have had a number of real good investigations but I would say this was a top notch investigation.

Mr. HUGHES. Did you ever recall an opportunity to reach the kingpins of a cartel all at one time, as Barry Seal was in this operation?

Mr. CAFFREY. From an operational standpoint, I don't recall any. We have had a number of investigations that have resulted with potential indictments against—historical conspiracies against—

Mr. HUGHES. The reason it was important for this operation to move ahead was because that potential existed, to learn much more about the organization, about their assets?

Mr. CAFFREY. That was a goal, but one of the primary goals was actually the arrest of the principals.

Mr. HUGHES. The arrest of Ochoa?

Mr. CAFFREY. Yes.

Mr. HUGHES. And Escobar, and you were close to them. In fact, your operative was with them, traveling with them, staying at their residences and had worked his way into their confidence. So you were very close to that operation?

Mr. CAFFREY. We were very close to the operation but we were also—our informant, Seal—was in a precarious position at the time in a sense that they had begun to check him out. He had already delivered cocaine back into the United States and people had been arrested subsequent to the delivery of that. So I mean, we were not about to end our investigation at that point, but we realized that we were on the clock so to speak, in terms of trying to achieve the goals that we had in the investigation.

Mr. HUGHES. What actually put you on the clock was the fact you found at some point that there was a leak?

Mr. CAFFREY. Well, there was a disclosure or statement made toward the end of June with respect to—by the South Commander—that Sandinista Government was involved in drug trafficking, but in terms of specificity, we even, although that existed, we still made a decision that the informant could go back.

Mr. HUGHES. That as a general statement about trafficking by the Nicaraguans?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. And it did not receive very much play, as I understand it. And it did not appear to have compromised your operation.

Mr. CAFFREY. No. We made the decision that he would return.

Mr. HUGHES. While some questions were raised about Barry Seal when in fact those 666 kilos of cocaine were seized after an accident and arrest of the operatives, that blame was shifted to Bustamante or Bates, wasn't it?

Mr. CAFFREY. I am not sure what happened to—

Mr. HUGHES. In other words, the cartel was led to believe, because of the operations in the field, that it was not because of anything that Barry Seal did, but the plane was shifted to somebody else?

Mr. CAFFREY. Well, that is true in all investigations. We try to do that, but you can do that once. Maybe you can do it twice. I am not sure people after a couple of times—

Mr. HUGHES. There is no question but you had to walk a narrow line?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. Just because of that. But the operation where a million and a half was taken into Nicaragua was reinforcing. He was welcomed into the cartel establishment, stayed in Escobar's home, was wined and dined and came out leaving the drugs behind. So at that point, it would appear as if he still enjoyed their trust.

Mr. CAFFREY. I don't question that he enjoyed their trust. The fact was I think that they were anxious for him to continue to bring drugs out and bring money back, and so when he returned with the money, I think he had arranged prior to going down

under some ruse he would not be able to bring drugs out that time. But it became obvious to us, looking at it from an analytical point that each and every time he would travel down there, they would probably try to prevail upon him to bring drugs out of the country, and if that were the case, then we would have to do some things operationally that we really didn't want to do, and have him stay in their and gather intelligence.

Mr. HUGHES. Did you explain to Oliver North when he suggested that this operation be released—to utilize the photographs, I presume that were taken of the transfer of the narcotics in Managua, to get that out to the press—did you suggest to him that that would put Barry Seal at risk?

Mr. CAFFREY. We didn't discuss putting the photographs out in the press. What he asked is could the story be told in the press, that is, the story about flying into Nicaragua and the government being involved. We didn't discuss the photographs being released. That was not discussed, as I recall.

Mr. HUGHES. What he wanted to get out was there was an instance where Sandinistas were involved in drug running?

Mr. CAFFREY. Yes sir.

Mr. HUGHES. That was the principal interest?

Mr. CAFFREY. That wasn't his principal interest, but he wanted to know how long was the case going to go on, what else did we plan on doing, and so forth.

Mr. HUGHES. Had you been to the National Security Council to brief them on any other drug operations?

Mr. CAFFREY. I had not.

Mr. HUGHES. Since then have you?

Mr. CAFFREY. I may have attended another meeting where I didn't actually do the briefing but—and it was during this time frame—but I just can't recall.

Mr. HUGHES. Isn't it unusual for the NSC to be interested in law enforcement operations?

Mr. CAFFREY. It is the first time in my experience.

Mr. HUGHES. You have been at DEA for 24 years. Is that the first time you had that experience?

Mr. CAFFREY. Well, we have worked with CIA overseas on occasion.

Mr. HUGHES. Any question in your mind that the reason that Oliver North was interested was because it was Sandinistas involving drug trafficking?

Mr. CAFFREY. He was concerned about that.

Mr. HUGHES. An entry in Oliver North's notebook dated June 27—I am going to ask one of our staff to put it up—lists some topics under the heading "drug case." I want to direct your attention to this document. Do you recognize some of the topics? Can you read that?

Mr. CAFFREY. It contains the names of some of the defendants in the case but the actual date really doesn't have much significance.

Mr. HUGHES. It has no significance?

Mr. CAFFREY. Not to me it doesn't, no.

Mr. HUGHES. But you did discuss the DEA program of controlling cocaine?

Mr. CAFFREY. I beg your pardon?

Mr. HUGHES. You did discuss the DEA program of controlling cocaine?

Mr. CAFFREY. I did?

Mr. HUGHES. I am asking the question. I don't know.

Mr. CAFFREY. In my conversation with North, and I don't believe it was on the 27th—

Mr. HUGHES. When do you think it was?

Mr. CAFFREY. I think it was after that.

Mr. WESTRATE. Mr. Chairman, I think that relates to a briefing I had on the 27th.

Mr. HUGHES. I see. Are there any other matters discussed with Oliver North and this person Dewey? I presume you are referring to Dewey Claridge. Any other discussions at that meeting?

Mr. CAFFREY. No. The meeting ended just with what I thought was the general understanding that we were probably going to go back with the money. We had not really finalized that plan yet. We had to get permission from our boss, but that was how I left off the meeting.

Mr. HUGHES. How many times did Oliver North suggest to you that the operation should be aborted and go public with it?

Mr. CAFFREY. I don't know that he said it should be aborted necessarily. He didn't think it was a good idea that the informant should go back down there. I seem to recall that after that meeting, I had a conversation with him. I don't know whether it was on the phone or whether I actually went over and talked to him, but when we in fact had decided that we were going to go back and make the payment with the money, and he expressed surprise that we were going back, which indicated maybe we had some misunderstanding the previous time, that he thought we weren't. But all I really left off with him previously was we hadn't made a final decision to go back yet, but probably we would go back.

Mr. HUGHES. How many times did Oliver North indicate to you that he felt that you ought to go public with it because of the contra vote coming up?

Mr. CAFFREY. He just mentioned that one time during the course of our briefing. As I say, I was doing the briefing, so I was doing most of the talking, and some of the questions he posed—

Mr. HUGHES. Did you report or tell your superiors about Oliver North's suggestion that the plane possibly, could the plane possibly be landed in another country besides Nicaragua and divert the \$1.5 million to the contras?

Mr. CAFFREY. I am not sure that I did that. My conversations when I came back really related more to the possible publicity, possible—that there were a number of people now more conversant with the case. I think my concerns were more in that area.

Mr. HUGHES. Did you have any other briefings with the National Security Council after that?

Mr. CAFFREY. Did I?

Mr. HUGHES. Yes.

Mr. CAFFREY. I don't recall that I had, but it is possible that I may have attended another meeting, but I just—I remember the one specifically prior to the trip back with the money, because I was conducting the briefing. I may have been in another one, at-

tended one with someone else who was really running the meeting, but off hand, I don't recall.

Mr. HUGHES. Did there come a time when you learned that the operation was compromised and the media had it, had the story?

Mr. CAFFREY. Yes. That was the middle of July. I am not all that conversant with that aspect of it, but there was a story that was coming out in the papers.

Mr. HUGHES. Did you find out about it before the story came out?

Mr. CAFFREY. I did not, but I believe somebody else in DEA did.

Mr. HUGHES. Did you ever conduct an investigation of the source of the leaks?

Mr. CAFFREY. I did not personally, no.

Mr. HUGHES. Did you participate in any meetings where that suggestion was made?

Mr. CAFFREY. I don't recall that I did, no.

Mr. HUGHES. Once the story was out to the Washington Times, then the operation was clearly exposed?

Mr. CAFFREY. Yes.

Seal's viability operationally was over. He was now a witness and not an operator.

Mr. HUGHES. So there is no question that he was of no further use as an operator, as a confidential informant at that point?

Mr. CAFFREY. No. His utility after that would be as a witness.

Mr. HUGHES. When that story broke was Seal in this country?

Mr. CAFFREY. I am not sure where he was.

Mr. HUGHES. You don't have any personal knowledge?

Mr. CAFFREY. I am sure the case agents knew where he was.

Mr. McCOLLUM. I am trying to get a clarification. I wanted to know if he was asking the whole panel or just you, Mr. Caffrey. I think we are doing it one at a time even though we have a panel. I think we will do it that way.

Mr. Caffrey, how long did this briefing last with Colonel North?

Mr. CAFFREY. About an hour.

Mr. McCOLLUM. It was a briefing that you gave to him, and the CIA also participated in the actual briefing.

Mr. CAFFREY. Yes, sir.

Mr. McCOLLUM. This was at his request?

Mr. CAFFREY. On whose request—my boss told me to go over and give him a briefing, so that is what I did.

Mr. McCOLLUM. There was no indication from North as to how he happened to be aware of this to ask for a briefing or to be given one or anything like that?

Mr. CAFFREY. No, but I gave him the briefing. They were pretty conversant with the operation.

Mr. McCOLLUM. There has been an implication in earlier testimony that a White House aide, I suppose the implication is that it might be North, was the one who leaked this story to the press. You have told us about the briefing. You told us that North would like to have—at one point indicated he would like to have had this information released or the story available.

Do you have any actual knowledge that Oliver North or anyone at the National Security Council did in fact leak this information to the press?

Mr. CAFFREY. No, I don't. I don't know who leaked it. I just know I didn't leak it.

Mr. McCOLLUM. Understood. That is fair enough.

In the process of an investigation involving informants like this, Mr. Caffrey, where you got somebody such as Barry Seal involved, you go through using him for a period of time, what makes this witness credible or not to you, what makes this informant credible?

Mr. CAFFREY. When he tells us something that we are able to corroborate through physical evidence or intelligence or through other witnesses or other informants or from observations made by our agents.

Mr. McCOLLUM. And it was on this basis that you decided to use Barry Seal because that type of information had come forward.

Mr. CAFFREY. Yes, sir, plus he was a pilot, a desirable commodity for smugglers.

Mr. McCOLLUM. How did you first get involved in this yourself? I know you were here in the Washington office. Is this routine for you to oversee, or was this a special kind of a case because of the nature of it or how did it come to your attention to begin with.

Mr. CAFFREY. There is a cocaine section we functionalize in the DEA, cocaine and heroin section. It is our responsibility in our section to monitor and coordinate most of the high caliber cocaine cases. We don't supervise the cases or conduct the investigation. That is done in the field level. But where there is special emphasis needed, if there is extra recourses required, or special authorities like foreign travel, things of that nature, or some investigation of a sensitive nature, we would be more conversant with those cases than we would be with the run of the mill street cases.

That was our function that we had staff coordinators responsible for various geographical areas of the world.

Mr. McCOLLUM. You were responsible for this area.

Mr. CAFFREY. I was responsible for all cocaine and I had staff, about eight or nine staff coordinators at the time working for me who had responsibility, one of whom had responsibility for this case.

Mr. McCOLLUM. Who had that responsibility.

Mr. CAFFREY. I believe it was Frank White.

Mr. McCOLLUM. Would you have had any direct contact with Mr. Jacobsen who was the agent out in the field that we had as a witness this morning.

Mr. CAFFREY. I don't believe so. I am not saying that that doesn't happen but I don't recall that in the investigation I had any contact with him. I think I had most of my contacts with Miami and with the special agent in charge.

Mr. McCOLLUM. Who was?

Mr. CAFFREY. Mr. Joura.

Mr. McCOLLUM. Some of the contacts go through Mr. White because he was directly—

Mr. CAFFREY. Mr. White would be the person that handled a lot of the details, requirements, if they needed money or equipment or special authorities.

Mr. McCOLLUM. Who would you report to in your chain of command at that time.

Mr. CAFFREY. Mr. Westrate.

Mr. McCOLLUM. Who directed you to give the briefing to Ollie North?

Mr. CAFFREY. I believe Mr. Westrate.

Mr. McCOLLUM. Let me ask you about this whole process of the Barry Seal matter and the issue that has been raised as to how useful he was for how long to you. In the process of the hearings that we have begun this morning and in the testimony we heard this morning and from what you have said as well, it appears that Barry Seal made a number of trips to Central America, that he was in the process of making a trip down at one point in late June 1984 when an amount of cocaine that he was supposed to bring back to the states was left behind for whatever reason.

It appears from what we have before us that subsequent to that or perhaps triggered by that, the cartel leadership that he was contacting and, of course, we wanted to get the goods on, decided to investigate him and we had testimony indicating as much as \$70,000 was paid to have his background checked out by the cartel.

And in the process, they apparently determined who he was, a real name that they never had before, determined that he had in fact been arrested here in the States and was convicted and in some status pending an appeal or sentencing or whatever. And they also determined in that process that he was somebody who was going to continue to work with them, but they didn't know very much more about him.

That apparently occurred, as I say, based on what we have heard sometime after this latter half of June operation, where the cocaine was left behind in Managua. Is that consistent with your knowledge of the facts?

Mr. CAFFREY. No. I don't recall when they started to look into his background. My sense would be that they might start to do that after the arrests were first made in Miami on the first load of coke that came back. That might trigger somebody to look at them but—at him.

Mr. McCOLLUM. Were you aware they looked into his background, whenever that did take place?

Mr. CAFFREY. I believe that I was, yeah. I just—but when that happened, I couldn't tell you. In fact when I heard it today, I remembered that I had heard that before.

Mr. McCOLLUM. You did hear that earlier today, that testimony that was given by Mr. Jacobsen.

Mr. CAFFREY. Yes, but when I think about what was said, I do recall that back during that period we were aware that they were checking him out. I can't put it in a time sequence for you.

Mr. McCOLLUM. In any event, he was going to go back potentially for another run and did in fact go back for one in July and was going for another one at least when this story broke; is that correct?

Mr. CAFFREY. I don't know that he was going back for another drug load when the story broke. We had some options open to us that we were looking at at the time. And then the story broke. I have heard someone say here today, I think that he was on his way to Mexico.

I don't recall that that was the case. We were exploring a number of items that—goals in this investigation that we would

like to have accomplished in a relatively short period of time, but that didn't happen.

Mr. McCOLLUM. You have heard the testimony today where Mr. Jacobsen said that the two things that he really hoped to accomplish that were not in this case were, one, the opportunity for Barry Seal to get to view the other assets of the cartel, which Seal had informed him and I guess other operatives, that the cartel was going to let him see, and Number 2, the opportunity to get all of the cartel leadership in one place and possibly get them arrested as a result of that.

Based on your knowledge of this case, and the status of Barry Seal and the condition of his being investigated, if you will, by the cartel, knowing he was under a conviction status, and knowing I presume, that he would have been somewhat suspect to them, is it from your experience as a DEA official that people of this level of cartel leadership in the cocaine trafficking would have trusted someone like Barry Seal to actually show him all of their assets, would have trusted him to the point where they would have gone to some point where you could have apprehended them.

Does that make sense to you?

Mr. CAFFREY. I think that if he was still trusted and they were planning on using him as a smuggling pilot they would have shown him landing strips. I think they may have been leery, but at one point they were preparing to do that. I think that was a possibility.

I think it was also more probable that there might have been an opportunity to arrest at least a couple of the principals in the case. My recollection is that at some point the defendants, Defendant Vaughn, expressed a desire to travel to Miami with his wife, and I think he asked Seal if he could fly him there at some point so that might have been a possibility in the future, but it wasn't really set down in any definitive time or date, but it was thrown there.

Every time the informant went down there, there were a lot of possibilities that he was graced with and he would repeat those things to us.

Mr. McCOLLUM. Isn't it true despite the disappointment involved in the case, not getting a couple high level drug kingpins, from the standpoint of comparing it to other operations that you conduct with the cartels in trying to break them up and get evidence and get convictions, that this operation does rate pretty high on the success level in the end product that you really did wind up getting.

Mr. CAFFREY. We took some major distributors out. We indicted some very high level Colombian traffickers and in fact we arrested one in Spain who subsequently slipped through the net, but I would say that it was a fair success. We didn't achieve all the goals certainly that we would like to have. But that is every case we have. We would like to get everything we can get.

Mr. McCOLLUM. Isn't that a judgment call, when you cut it off, when you stop it, when you go to court?

Mr. CAFFREY. We have some say in the operational points in it, but also the prosecutor does. He may have concerns.

Mr. McCOLLUM. Did you ever talk to Mr. Gregorie, the prosecutor in this case?

Mr. CAFFREY. I don't recall that I spoke with him. They had concerns about Seal going back on the money trip and they were not legal concerns really. They were just afraid something would happen to him. And if they had no witness, then our case obviously would not be in too good a shape. But our special agent in charge really was the one who made the decision with Mr. Mullen, that it was a calculated risk, but it made as much sense to go as not to go.

Mr. McCOLLUM. Has there, to your knowledge been any further Colombian cartel drug running through Managua like this since this occurred?

Mr. CAFFREY. I can't answer that.

Mr. McCOLLUM. To your knowledge.

Mr. CAFFREY. Not to my knowledge. At this point, there may be intelligence information around with respect to that, but I can't think of anything.

Mr. McCOLLUM. Thank you very much.

Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from California?

Mr. LUNGREN. Thank you very much, Mr. Chairman. Before I ask the questions I would just like to mention the overall scenario we are in here and some concerns that were raised today that have nothing to do with the Chairman or the manner in which this is being handled. I found an AP Wire Service article describing this morning's hearing in which it says that this is the first in a series by the House Judiciary Subcommittee on Crime on criminal activities and on further Central American policy, especially winning aid for the contra rebels.

The panel also is studying whether administration officials obstructed law enforcement operations and goes on to actually use the term, "obstruction of justice," which, as I understand it, is a criminal charge. The reason I bring this up is to mention despite what we may be attempting to do, we are in a political environment, a very, very political environment, and I think we ought to recognize that all the way through.

Just for the record, I would like to state and maybe the press will hear at this time, if they haven't heard it before, that this administration is not perfect in fighting the drug war, but there are some salient facts that also seem to slip through.

One is that prior to this administration, the FBI had never been involved in drug cases before, all the way from the beginning of the formation of the FBI. This is the first administration that ever brought it into the war. There is a coordination between the FBI and the DEA on anti-drug that never existed before.

It took two years to get us up back to manpower levels that existed in the Ford Administration for FBI and DEA. It had been cut in the previous administration. We have involved the Armed Forces and we even heard testimony this morning about how the Armed Forces helped, at least in one instance.

I just think that some of the conclusions drawn and produced and reproduced in the newspapers do a disservice to the people in this administration, FBI and DEA and others who attempted to do a good job in the last eight years in the anti-drug effort.

I know it is a political year and I know it is a presidential year and I know it is an issue and I know it is something some of the

cameras aren't interested in anymore because they got their exciting testimony earlier, but in point of fact, I think we ought to be very careful about how we phrase things when we use terms such as obstruction of justice or making accusations with respect to criminal activity by people.

I don't know what you do to get the press to refrain from conclusions before all the evidence is in, but it just seems to me to be the height of irresponsibility in some cases for some of those things to carry through.

Now, sir, with respect to this overall effort, I think there was a question asked of you by Mr. McCollum about Sandinistas' participation in drug dealing, and maybe I can rephrase it. Do you have any evidence that the Sandinistas or the Nicaraguan Government was involved to the extent expressed this morning in drug dealing before this particular time period.

Mr. CAFFREY. Before this particular time period, not to my knowledge.

Mr. LUNGREN. What about subsequent to this, to your knowledge? Did the laboratories ever get built so they were processing the paste in order to produce the product to come to the U.S. from Nicaragua sites?

Mr. CAFFREY. I can't answer that, because when this news story came out, the case ended with arrests in Florida and after that I left the cocaine desk. So I wasn't conversant with the major cocaine cases any longer. I couldn't tell you if that surfaced in our investigations or not.

Mr. LUNGREN. If we assume for argument purposes that in fact after this case was concluded, convictions came down on some of the principals, although some of them were not brought to justice, that the Sandinistas did not then participate or the Government did not allow such activity in their country, as had earlier been planned, would that not mean that we had successfully sort of nipped that particular program in the bud?

Mr. CAFFREY. If they stopped doing it, sure. But I don't know that they did. I couldn't say whether they did.

Mr. LUNGREN. If evidence shows later on it did not continue after that point, would that not be considered one success out of the program that at least we eliminated the possibility of another flow into this country with the protection of another government?

Mr. CAFFREY. I think the likelihood would be that the traffickers would just move to another place and use another place as a trans-script point. That has been their history.

Mr. LUNGREN. What is the purpose for us destroying laboratories where, if that is—if it just means they move.

Mr. CAFFREY. We have got to know where they are and try to get them where they move to. But basically this is a chess game we play with these drug traffickers.

Mr. LUNGREN. One of the purposes is to stop them from having access to particular locations. We attempt to do that, correct?

Mr. CAFFREY. Yes.

Mr. LUNGREN. With the exception of Carlos Lehder, how successful have we been in bringing these cartel leaders to the United States for prosecution?

Mr. CAFFREY. It has been a very slow process. The extradition has returned some people. Some have been returned in non-extradition situations, but it has been a very slow agonizing process.

Mr. LUNGREN. To your knowledge, we have not the cooperation of the Nicaraguan Government in bringing anybody to justice who have been involved in drug cases.

Mr. CAFFREY. Not to my knowledge, no.

Mr. LUNGREN. I know you have answered this in some ways, but let me ask it a slightly different way. That is, how long do you think we could have strung out the case with Seal being such a key figure?

I mean, I have seen some of your testimony about how you have some concerns about trying a second shipment and having another accident or somehow getting it. Realistically, based on your experience with a fellow of Seal's background and so forth, with them having at least invested, spending \$70,000 to have an attorney check into his record, how long realistically do you think we might have been able to string that out?

Mr. CAFFREY. It is hard to say. I think we would have had to play a stalling routine in hopes of gaining intelligence and information without bringing another shipment back. He may have been able to bring another shipment back and we might have gotten away with it one more time.

Mr. LUNGREN. You mentioned in testimony in deposition about stalling.

Mr. CAFFREY. For several reasons, to get the information about where the sites were and also if during that period they decided to fly on his plane, somewhere where we could arrest them, that would end the case there because we would arrest them, and that would be the end of it.

Mr. LUNGREN. How about the question some raised that possibly Bustamante was not as important as we think he is or for which he was evidentially convicted, that is, that he may have been in a sense the servant of Seal, and I guess to come to that conclusion you would have to believe that Seal in a sense performed a sting on you folks, you know, giving money to Bustamante before so he could hand it to him in the presence of your agents or actives.

Mr. CAFFREY. We didn't have any indication of that at the time. This is the first I heard of it here today. Based on my understanding of the investigation, Bustamante was the one that provided these large sums of money to Mr. Seal.

I don't really have any basis in fact.

Mr. LUNGREN. Up to this time, you hadn't any leads that would suggest that to you.

Mr. CAFFREY. Not to my knowledge.

Mr. LUNGREN. Thank you very much.

Thank you, Mr. Chairman.

Mr. HUGHES. I just have a few questions of Mr. Caffrey and I would like to move to Mr. Monastero.

The fact of the matter is that in any sting operation, you have to be very careful in a number of respects. First of all, when you use confidential informants, is it not so if you watch it, they have got their own little business on the side once again?

Mr. CAFFREY. Yes, sir.

Mr. HUGHES. That is why you have to maintain good control over a sting operation. Most of the people that you are using, you flip to begin with, they have been arrested, indicted and they are at risk, and so they try to buy their way to freedom or at least some concession in exchange for trying to help you develop cases, but you have to watch them.

Mr. CAFFREY. Yes, sir.

Mr. HUGHES. That was the case with Seal?

Mr. CAFFREY. Yes. We attempted, where we could, to corroborate.

Mr. HUGHES. That was difficult because Seal was sort of like a loose cannon at times. When he left this country, there was very little control.

Mr. CAFFREY. Little control in the sense that he was with himself and his crew and we didn't have agents on the flights and that is one of the reasons we wanted cameras on his plane. I believe there were some checks conducted on his gasoline to determine the type of gasoline it was and where it was purchased to ensure that he was going to where he said he was going.

Mr. HUGHES. Second thing is that there comes a time with any sting operation that when you take certain steps to confiscate goods, that you begin to internally compromise the sting operation, but in this instance the compromising came from outside sources, isn't that so?

Mr. CAFFREY. Well the press release certainly shortened our time.

Mr. HUGHES. Shortened the investigation?

Mr. CAFFREY. Shortened our operation.

Mr. HUGHES. It basically aborted the operation at that point. Seal was of no use to the operation at that point.

Mr. CAFFREY. When the press releases in July were made, that was the end of our investigation operationally.

Mr. HUGHES. Except as a witness. Individuals that conspired to violate our narcotics laws.

Mr. CAFFREY. Yes.

Mr. HUGHES. Mr. Monastero, if I might, you are now retired from the Drug Enforcement Administration.

Mr. MONASTERO. That is correct.

Mr. HUGHES. How many years did you serve with the DEA?

Mr. MONASTERO. I served the entire time—DEA was formed 1973, with the prior agency and the agency prior to that.

Mr. HUGHES. When did you retire from DEA?

Mr. MONASTERO. June 30 of 1985.

Mr. HUGHES. What was your position at that time?

Mr. MONASTERO. I was the Chief of Operations, the Assistant Administrator for Operations.

Mr. HUGHES. Assistant Administrator for Operations.

Mr. MONASTERO. Yes.

Mr. HUGHES. Actually, you were in charge of all operations.

Mr. MONASTERO. Yes, that is correct.

Mr. HUGHES. Worldwide.

Mr. MONASTERO. Yes.

Mr. HUGHES. When did you first become familiar with the Barry Seal, Nicaragua case?

Mr. MONASTERO. I don't think I can answer that precisely, Congressman. It must have been some time around when he—well, I believe when he was first referred to us from the IMBIS Office, I probably was aware of that and I was probably told that he was referred. It would have been an unusual circumstance.

Mr. HUGHES. Did you take the call from IMBIS yourself?

Mr. MONASTERO. I am sure I didn't. At least I don't think I did. That would be the routine, simply referring an informant to us, and since he had information about cocaine smuggling, it would have been referred to the cocaine desk which Mr. Caffrey supervised at the time and somebody from that desk would have been assigned to sit down with him, and I believe that is what happened.

Mr. HUGHES. Did there come a time when you had more knowledge about the operation?

Mr. MONASTERO. Yes, I am sure that after he was debriefed in Miami with the significance of that debriefing, I would have been informed about the potential that he had.

Mr. HUGHES. Did you become aware at some point of the great potential of this particular operation?

Mr. MONASTERO. Yes.

Mr. HUGHES. Reaching to the top echelons of the Medellin cartel in Colombia?

Mr. MONASTERO. Yes, I am sure I was, yes.

Mr. HUGHES. Did there come a time when you talked with others outside your agency about that operation?

Mr. MONASTERO. I didn't talk with anybody outside of my agency about the operation until quite a bit after the disclosure.

As a matter of fact, I think the disclosure came, just to clarify some of the questions that were raised here, I was notified by our public information office, I believe, on the 12th of July, that this investigation was known by at least one reporter, and at that time, on that day, immediately I called directly to the supervisor in Miami to alert him to that.

Now, up to that time I had not—

Mr. HUGHES. That was Robert Joura you contacted?

Mr. MONASTERO. Yes. Up to that time I had never discussed this with anybody outside. I believe my first discussion with anybody outside of DEA about the investigation was probably on the 17th of July.

Mr. HUGHES. Now, you became aware that the operation had been compromised—at least there had been a leak before it actually appeared in the Washington Times?

Mr. MONASTERO. Yes.

Mr. HUGHES. It appeared in the Washington Times on July 17.

Mr. MONASTERO. Right.

Mr. HUGHES. Of 1984?

Mr. MONASTERO. Yes.

Mr. HUGHES. Now, what took place after you became aware of the leak and you contacted the field office in Miami?

Mr. MONASTERO. Well, as far as I remember, and I know I am under oath, but this is four years ago, and I really don't remember a lot precisely. As far as I know, I would have had a meeting, probably with Mr. Westrate and Mr. Caffrey and perhaps discussed this

with the agent in charge in Miami to see what kind of potential damage this would incur on the investigation.

Mr. HUGHES. Did you participate in any meetings at the National Security Council?

Mr. MONASTERO. No. I did not.

Mr. HUGHES. You did not. Did you appear with—did you go to any meetings where the leak was discussed, where you were attempting to do something about the leak?

Mr. MONASTERO. Go to any meetings?

Mr. HUGHES. Yes. Did you attempt to do something about the leak?

Mr. MONASTERO. Well, I went to a meeting on the 17th of July, the day that the leak or that the first press, direct press information appeared in the press. I was asked to go to brief Carlton Turner, who was the Drug Policy Advisor at the White House, on the investigation.

At that meeting, there was a discussion of the investigation and of the leak at that time.

Mr. HUGHES. Was there an investigation underway to try to identify the source of the leak?

Mr. MONASTERO. There was no investigation of the leak at that time, no.

Mr. HUGHES. Did you ask Carlton Turner if he had any knowledge about the leak?

Mr. MONASTERO. The recollection that I have of the meeting was to the effect that he asked me about the investigation and the leak. It was obvious from our conversation that he had considerable amount of information about the investigation. The inference that I drew from some of what he said was that he was accusing us, accusing DEA, of leaking the story. I became quite irritated with that, got quite upset, and let him know in no uncertain terms, as I recall, that I thought the leak came from the White House, because of the contra support vote that was upcoming and that we had no intention of leaking the story.

That, as a matter of fact, if whoever did leak it would have waited just a little bit longer, they would have had more incriminating information about what involvement the Sandinista Government, in fact, may have had in that case.

Mr. HUGHES. Is that the first time with the Barry Seal, Nicaragua case that you were privy to any information that the Nicaraguans, Sandinistas or anybody else in Nicaragua was trafficking in drugs?

Mr. MONASTERO. The Barry Seal case?

Mr. HUGHES. Yes.

Mr. MONASTERO. As far as I can recall, yes.

Mr. HUGHES. Do you recall after that case any information coming to your attention involving the Sandinistas, drug trafficking?

Mr. MONASTERO. No.

Mr. HUGHES. So that was the only instance?

Mr. MONASTERO. To my recollection, it was, yes.

Mr. HUGHES. Did you become aware of the suggestion that was made apparently by Oliver North to Mr. Caffrey that perhaps play-

ing with the \$1.1 million which might be sent down in another country, where the money could be channeled to the contras?

Mr. MONASTERO. I think Mr. Caffrey said it would land outside of Managua, but in Nicaragua, but, no, I don't have any recollection of being told that at the time, and, frankly, if he did tell me, I wouldn't at that time have realized the significance of that.

Mr. HUGHES. You would not have realized it?

Mr. MONASTERO. I wouldn't have realized it at that time because nobody knew at that time that Oliver North was doing what he was doing.

Mr. HUGHES. I see.

We have a vote underway, so I am going to recess for about ten minutes. The subcommittee stands in recess.

[Recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order.

Mr. Monastero, just a couple other questions. After you realized that this major operation had been blown and that somebody had leaked not just information about the operation, but actual photographs taken, which carried in the Washington Times, did you or anybody at DEA initiate an investigation?

Mr. MONASTERO. No, we did not. I think for a very good reason.

Mr. HUGHES. What was the reason?

Mr. MONASTERO. Well, it wasn't our responsibility to initiate an investigation, since everyone in the Administration, from us all the way through the Attorney General to senior people in the White House were aware that there was a potential leak involvement here. It wasn't up to us to initiate a leak investigation in this particular case. It may not have been appropriate for one thing.

Mr. HUGHES. Why is that?

Mr. MONASTERO. Well, there may have been a decision made at a very high level that this was to be leaked. There was—there would have been no necessity for an investigation under those conditions.

Mr. HUGHES. I can't hear you.

Mr. MONASTERO. I say there may have been a conscious decision to disclose the information to the press, and in that case, somebody must have known that, if that were the case, it wouldn't have been necessary.

Mr. HUGHES. There is some question that a conscious decision was made to disclose the evidence. Isn't that so?

Mr. MONASTERO. Well, that is conjecture on my part. I don't know that. I don't know who made it. That is an assumption that I would make, yes. If that were the case, there is no need to institute an investigation that people who institute the investigation would have known the answer before they started.

Mr. HUGHES. To your knowledge, who had the information about the operation beside DEA?

Mr. MONASTERO. To my knowledge, certain people, and I can't go through a litany of names, at the White House knew about it. People at the CIA certainly knew about it. There were people in the Defense Department, although I think, well, there were people in the Defense Department who knew about it.

There may have been people in other agencies that I am not aware of that may have known about it. But those agencies certainly besides DEA knew about the investigation.

Mr. HUGHES. Did you participate in any of the discussions with CIA at any point when they were attempting to release the information, when they were trying to get it released publicly?

Mr. MONASTERO. I am not aware that the CIA was ever—I heard the testimony this morning. That is the first time I heard that.

Mr. HUGHES. You have no knowledge of that, though?

Mr. MONASTERO. Not the CIA, no.

Mr. HUGHES. Mr. Westrate, you are presently with the DEA, are you not?

Mr. WESTRATE. I am currently the Assistant Administrator for Operations.

Mr. HUGHES. What was your position in May and June and July of 1984?

Mr. WESTRATE. Mr. Monastero's deputy, so I was a Deputy Assistant for Operations.

Mr. HUGHES. Deputy Assistant for Operations?

Mr. WESTRATE. Yes, sir.

Mr. HUGHES. Did there come a time when you became aware of the Barry Seal operation?

Mr. WESTRATE. Yes, sir, during the same time frame, May, June, and July of 1984.

Mr. HUGHES. How did you become aware of it?

Mr. WESTRATE. Through the normal course of business.

Mr. HUGHES. Were you the contact person in operations?

Mr. WESTRATE. Well, I supervised all of the drug desks, so I was the natural conduit between the drug desk and Mr. Monastero.

Mr. HUGHES. Mr. Caffrey reported directly to you?

Mr. WESTRATE. Yes, sir, that's correct.

Mr. HUGHES. You were aware from the very beginning that it was brought to the—that Barry Seal was brought to your attention?

Mr. WESTRATE. Well, I don't think necessarily the minute he was debriefed because as we developed into the potential of actually making a trip to Nicaragua I was certainly brought in because that was very sensitive.

Mr. HUGHES. What was your role during that period of time?

Mr. WESTRATE. My role was normal supervision, coordination down with Mr. Caffrey, up with Mr. Monastero and some interaction activities.

Mr. HUGHES. Did you attend any briefings at the National Security Council?

Mr. WESTRATE. Yes, sir, I did. I attended two meetings at the White House. One on June 27th and a second one on June 29th.

Mr. HUGHES. Who was present at the meeting on June 27th?

Mr. WESTRATE. On June 27, there was myself, Colonel North, Mr. Dewey Clarridge of the CIA, Kennedy Grafanrid, who was, as I understood, assistant to the President and Gregg Johnstone of the Office of Indian Affairs at the State Department.

Mr. HUGHES. Who conducted the meeting?

Mr. WESTRATE. Colonel North.

Mr. HUGHES. What was discussed at the meeting?

Mr. WESTRATE. There were a number of issues discussed at the meeting. The meeting opened with a presentation of the photographs by Mr. Clarridge. The photos were passed around the room

and discussed. The second thing that we discussed was whether or not to release, the release of the facts in this case would in any way influence the pending vote on the Congress. And interestingly enough the conclusion of the group was that it probably, in the end, would not.

We also discussed at some length the rules about press releases in cases, most of which I led, because I wanted to make certain that everybody understood that there was within the criminal justice system a very strict protocol on media coverage of investigations, and we were quite concerned that—I wanted to be certain nothing happened in this case that would be different from any other case, because clearly we expected to be prosecuting some of the most major cocaine traffickers in the world, and didn't want to prejudice the prosecution.

So I explained at length the Department of Justice rules and how generally we don't comment beyond as is often said the four corners of an indictment and so forth. There also was some discussion about how details of an investigation would or could come out, and my objection was that something as high visibility as this, in my view, having watched cases over the years, that if the regular announcement were made, the media, as strong as it is, probably within a few days would elaborate considerably.

That just seems to be the way things go. So we discussed that. And we also discussed at length the future, the potential that we felt that this investigation had. This meeting was the day after the cocaine had arrived in Miami, so the thing was really cooking at that point.

That meeting lasted quite awhile. And Friday, June 29, we attended—

Mr. HUGHES. Before you move on to the 29th of June, what prompted the discussion about the operation and how that would impact the contras? Who raised that issue?

Mr. WESTRATE. I don't remember who actually raised that.

Mr. HUGHES. What relevance would that have to this investigation? What difference does it make?

Mr. WESTRATE. I think it was quite clear, Mr. Chairman, that the people at the White House felt that having derogatory information on members of the Sandinista government would be helpful in this vote.

Mr. HUGHES. As a law enforcement officer, it wouldn't make any difference to you what the politics were about the individuals, would it?

Mr. WESTRATE. No, sir, it would not.

Mr. HUGHES. Obviously it was raised by somebody from the White House?

Mr. WESTRATE. Yes, because they clearly were interested in this.

Mr. HUGHES. You didn't raise it, did you?

Mr. WESTRATE. No, I did not. That doesn't mean they wanted to disclose it prematurely but they were certainly interested in as soon as possible.

This would be useful was the general tone of it. I wasn't sure it would be useful. More cocaine traffickers, there are so many everywhere that we weren't sure they would have any impact at all. There was quite a discussion on that very subject.

Mr. HUGHES. What precipitated your discussion with them concerning the rules of the Justice Department with regard to releasing information and the extent of the operation, nature of the operation, was it a discussion that perhaps it might be released in connection with an upcoming contra vote?

Mr. WESTRATE. I think there were some assumptions made by people there who were not familiar with the investigative process in handling the press about cases, that all the details could be disclosed including photographs and, you know, other things that would normally in my context be evidentiary or perhaps grand jury information, or be, you know, speculative or what have you, which we don't do in the investigative process, press releases.

Mr. HUGHES. Was that, did that discussion come from Dewey Clarridge or from Oliver North or where did it come from?

Mr. WESTRATE. I really don't recall, sir. It was four years ago and—

Mr. HUGHES. Mr. Caffrey's recollection was it came from Oliver North. You have no information to that fact or to contradict that?

Mr. WESTRATE. It may have. I don't recall specifically.

Mr. HUGHES. The meeting of the 29th, who was present at that meeting and what was discussed?

Mr. WESTRATE. At that meeting, Mr. Caffrey was present. He and I went there, according to my notes, Mr. Clarridge, Mr. North, and again, Mr. Johnstone.

The purpose of this meeting was to just keep everybody up to date and also to report the fact that the cocaine had actually now been delivered and the seizure played in Miami. Again to reiterate the fact that we had future plans and we were going to proceed with our future plans.

Mr. HUGHES. Had you been to the White House, on the operation, like on-going operations such as this before?

Mr. WESTRATE. Not on this particular thing, but I have been there a couple times since on very sensitive cases.

Mr. HUGHES. That is the exception rather than the rule, is it?

Mr. WESTRATE. Yes, it is.

Mr. HUGHES. On the 29th, was—did the same discussion come up relative to releasing this operation to the press?

Mr. WESTRATE. No. I think the 29th was much briefer because nothing that much changed. It was only two days later. The cocaine had been delivered. We thought it had gone okay.

The informants were all still we thought okay. So it was really not the same type of meeting as the 27th.

Mr. HUGHES. When did you become aware that the Seal Nicaraguan operation had been compromised?

Mr. WESTRATE. Clearly, when the newspaper stories surfaced, it was compromised. No question about that.

Mr. HUGHES. That is the first knowledge that you had or did you not know about that?

Mr. WESTRATE. Well, I think the news leaks compromised the investigation.

Mr. HUGHES. There is some evidence to suggest that some of the officials, DEA, attempted to get the newspapers to hold the story for awhile. Did you participate in that, those discussions?

Mr. WESTRATE. No. There were discussions about that, but my understanding is nobody actually made an overt attempt to have that done. I don't believe that actually happened.

Mr. HUGHES. Did you ever ask the FBI or any other agency to pursue an investigation as to the source of the leak?

Mr. WESTRATE. No, I did not.

Mr. HUGHES. Did you seek any such investigation from within the Justice Department?

Mr. WESTRATE. No, but I believe the administrator, Mr. Mullen, did discuss this with the Deputy Attorney General.

Mr. HUGHES. Were you privy to that conversation?

Mr. WESTRATE. No, sir, I was not.

Mr. HUGHES. Do you know of your knowledge whether the administrator, Bud Mullen, attempted to get information of the source of the leak?

Mr. WESTRATE. No, sir, I would be speculating. Perhaps you can ask him directly.

Mr. HUGHES. The gentleman from Florida.

Mr. McCOLLUM. Mr. Westrate, did you consider this operation generally a success?

Mr. WESTRATE. No, not in terms of its potential. I don't believe it really was. It would have been a lot closer had we gotten Ochoa out of Spain, but short of that, we got basically your bucket issue Miami distribution organization.

We got the highest Colombian recipient in Miami, the people associated with that person, a nice cocaine seizure, and I think we probably got a very small percentage of the potential intelligence that we could have gotten had we been able to pursue this with a clear field.

Mr. McCOLLUM. Did you anticipate in following this that you would have had a considerable period of time to pursue this as Mr. Jacobsen described this morning in his testimony, how did you view that?

Mr. WESTRATE. Well, the problem with this is, I think everybody speculating about what might have been and nobody really knows. We might not have gotten far at all, but if we had been able, for example, to cut him loose to do things that did not involve the direct importation of cocaine to the U.S., in other words, reruns of the Miami activity, we could have used him for a considerable period of time to do things in South America on where are these lab sites, and if we can get a lab site like Tranquilandia where we have 10,000 pounds of cocaine in one spot with tremendous production capability, that would have been useful.

We don't know if we could have done that either because that would have been dictated by the cartel members.

Mr. McCOLLUM. Why would you have anticipated that a pilot would have had the success of guiding labs and being shown assets of anything more than the runways which were described earlier, which I can certainly understand since he was a pilot?

Mr. WESTRATE. As Mr. Jacobsen testified this morning, the pilots moved between the lab sites and other strips for smuggling goods in and out and moved where chemicals are stored and so forth.

Mr. McCOLLUM. Do you believe there really were labs in Nicaragua?

Mr. WESTRATE. I don't think they ever got set up there. My understanding of the way this went, there was so much heat in Colombia, they thought they had a good alternative in Nicaragua. They attempted to move their things and look good, and the Miami end blew up.

They backed off and regrouped again in Colombia.

Mr. McCOLLUM. Has there been any indication since this case was brought to a conclusion that the Sandinistas or anyone in Nicaragua has been involved in Colombian or any other drug smuggling?

Mr. WESTRATE. I would say there continues to be pieces of intelligence that we received periodically about activities, but nothing that raises to the level of what we are talking about here, in terms of who was involved, the volume, military involvement, and air strips and all that. We have enough sources out there that if this kind of activity were going on, we would be aware of it.

Mr. McCOLLUM. Mr. Westrate, could you describe for us the informant program and the procedures that DEA has for handling informants?

Mr. WESTRATE. Yes, sir. I will try and do this very fairly consistently. We do have extensive informant control mechanisms. Most of these mechanisms are in place because of years and years of experience. They—we have very tight controls over payments. How they are made, what they are made for, documenting our sources.

We also have a system for making sure that we do not continue to work with a source that we do not believe is truthful or that we cannot trust for other reasons.

So we have a very elaborate source control program within DEA, controlled by our agent's manual and, of course, training. Handling informants is a constant issue for inspection and supervision.

Mr. McCOLLUM. What happens if an informant lies to you?

Mr. WESTRATE. He is discontinued.

Mr. McCOLLUM. In the case of Barry Seal, was he discontinued for lying to you at any time?

Mr. WESTRATE. I am not aware of any lies that he told us.

Mr. McCOLLUM. Why wasn't he in the witness protection program?

Mr. WESTRATE. Well, that is a terrible tragedy, because I wish he had taken that opportunity. He probably would be alive today had he done that. He refused with protection after constant urging by us to enter that program.

Mr. McCOLLUM. And he was at the time of his death in New Orleans on some kind of a release type program, is that correct?

Mr. WESTRATE. Yes, he was. As I understand it, as I recall it, he was assigned to a release program by the sentencing judge and refused with protection.

Mr. McCOLLUM. This was some two years after the incident we are talking about here, am I not correct? About—'84 this occurred and his death occurred in '86?

Mr. WESTRATE. It could be as much.

Mr. McCOLLUM. What role does the U.S. Attorney play in the direction of a DEA case?

Mr. WESTRATE. The Attorney General guidelines require that the investigators coordinate with the prosecuting attorney, as soon as

we believe we have a prosecutable violation. And then we work in close coordination with the prosecutor throughout the development of the case.

Mr. McCOLLUM. Is it unusual for a prosecutor to disagree with the DEA over some things like when a case is brought to trial or brought to conclusion or this sort of thing?

Mr. WESTRATE. Usually, the development of the case is something that is worked together, but it is not unusual to have disagreements.

Mr. McCOLLUM. Are you familiar with Richard Gregorie's concerns about this case?

Mr. WESTRATE. Yes, I am.

Mr. McCOLLUM. Are you aware that he did not seem to think there should be another run by Seal to Central America after the one that occurred immediately prior to the disclosure in the press?

Mr. WESTRATE. Yes. I think this is another example of people's perspectives. He was probably most concerned about losing the witness. We had some interest in other intelligence developments and so it doesn't surprise me that we would have taken that position.

Mr. McCOLLUM. He was afraid of losing Barry Seal because he had a case against Escobar and some of the others, he thought, didn't he?

Mr. WESTRATE. Yes. We did have a viable indictment. They were indicted. We couldn't get our hands on them to prosecute them.

Mr. McCOLLUM. Okay. I don't have any further questions, Mr. Chairman.

Mr. HUGHES. The gentleman from California.

Mr. LUNGREN. Thank you, Mr. Chairman.

Let me just at the outset say what I tried to say before with all the folks that are involved with DEA. I think you do a hell of a job, and I don't think we give you enough attention for it. I don't think the amount of dedication and sacrifice you make is fully understood. Having a relative in your operation, I know the pride you have got in your operation. You folks ought to get all the credit that is due you.

Mr. WESTRATE. Thank you.

Mr. LUNGREN. What was the difficulty with getting Mr. Ochoa to the United States subsequent to the indictment and extradition request?

Mr. WESTRATE. Well, the Spanish end of this, there was a decision made in court that a Colombian case took precedence over the U.S. case, and that technical decision was made, and they shipped him back to Colombia.

Mr. LUNGREN. So that was a different problem we are dealing with there.

Mr. WESTRATE. And he was a Colombian national. There was a lot of intense pressure brought to bear in this case.

Mr. LUNGREN. I might go back to that meeting you had with some other folks in the administration discussing whether or not the disclosure of the information that the Sandinistas were implicated in drug running would influence the vote on the contra question. Did you say the general consensus or the conclusion was that they didn't think it would influence it? Is that what you said?

Mr. WESTRATE. Yes, that is correct.

Mr. LUNGREN. Was that pretty well finalized that way, or was it someone offhand saying, "I don't think it will"—

Mr. WESTRATE. This was like a round table discussion.

Mr. LUNGREN. Did you leave the meeting with the impression that that was the general feeling out of the group that you were a part of?

Mr. WESTRATE. Yes. In fact, Mr. Monastero reminds me that Mr. North had made some comment about having discussed this informally with some people on the Hill who also indicated that it probably wouldn't make any difference.

Mr. LUNGREN. You see, that is one of the problems. I think we have got some real problems in this city with leaks on both ends of Pennsylvania Avenue. Do you have any idea where this leak came from?

Mr. WESTRATE. No, sir, I don't.

Mr. LUNGREN. Do you have any idea whether it came from one end of Pennsylvania Avenue or the other end?

Mr. WESTRATE. I really don't.

Mr. LUNGREN. It was indicated to you informally some discussion had been held with some Members of Congress, is that right?

Mr. WESTRATE. Yes.

Mr. LUNGREN. That is one of the frustrations about this whole thing. I have been in meetings with the administration where they have—high officials have given us confidential information dealing with ourselves and the Soviet Union, for instance.

Mr. HUGHES. Can we establish a time frame?

Mr. LUNGREN. Sure. Can we establish a time frame for that?

Mr. HUGHES. Because there did come a time when a member, Paula Hawkins, to be exact, did have a press conference with photographs.

Mr. LUNGREN. What I am asking is this meeting that you had with the others at the White House we have just been referring to, or others in the administration, did that take place before the article appeared in the Washington Times? Mr. Monastero?

Mr. MONASTERO. It took place before the disclosure in the Washington Times, yes.

Mr. LUNGREN. At least we have that time frame.

Mr. WESTRATE. It was definitely on or before the 27th of June.

Mr. LUNGREN. So I have been in meetings with Members, and we get intelligence information and Members say, well, it will help our case one way or the other, not Democrat or Republican, just help the case if we bring this information to the American people, and we always hear, particularly from the military, that will compromise our sources or our methods; and, therefore, we can't do it, and that is an ongoing fight.

At times, I am afraid some minds get tempted to say it is better to have the information in the public domain. I don't think we do a good enough job up here, and I don't think they do a good enough job down on the Executive side of this at all.

If I could just ask you in a little more detail just to get firm in my mind, if you feel free to talk about it, do we have what you consider to be good evidence subsequent to this case's culmination that suggests that the Sandinista government is either participating in or allowing drug smuggling through their country or the import of

coca base processing in their country and then shipment to the United States?

Mr. WESTRATE. No. There is no volume of intelligence in that direction. As I say, there is a piece here and there, both on the contra side and the Sandinista side, like we have had for several years but nothing of any significance.

Mr. LUNGREN. Given the fact this case was exposed but based on the information you had through this case, is it your conclusion at this time that we probably don't have anything of the same significance, or is it just you fear we don't have enough evidence to make a judgment on that?

Mr. WESTRATE. No. I think we ought to look at this differently. If you were a trafficker in Colombia, you would take the path of least resistance, and unless you were really hooked in there where you had free access to a military base, or something, you probably would look elsewhere because there is hostility there. Nobody knows who looks where. So the path of least resistance. Currently it is a lot through Mexico and across the U.S. border and the Bahamian route, I might point out in recent months in cargo containers.

So you don't like to chalk a case up in New Jersey like the Wood case down in Tampa. You get 4,000 or 5,000 pounds in a cargo container, and why bother with all this other grief?

Mr. LUNGREN. We, in California, understand this problem so well. You have done such a great job on the Southern Florida Task Force, we have had a little more come into our part of the country, so I understand exactly what you mean. But I suppose your answer is it doesn't mean they are using that protection of the Sandinista Government about which they were to embark when their case became public.

Mr. WESTRATE. Nicaragua is basically not significant in the equation today.

Mr. LUNGREN. Thank you very much, Mr. Chairman.

Mr. HUGHES. Thank you. I have a couple of questions.

Mr. Monastero, after Mr. Caffrey went over and briefed the National Security Council, you took a telephone call from Mr. Oliver North, did you not?

Mr. MONASTERO. Yes.

Mr. HUGHES. And his purpose in calling you was to talk to you about releasing that information publicly, the operation to the public, is that true?

Mr. MONASTERO. I am refreshed on that, and as I understand it now, he called. He called for Mr. Mullen, who was not there and was referred to me. He called to complain initially that a White House press officer had indicated that he received a call saying that Oliver North would be the source of information about this case, which now had appeared in the press that morning, and that North was irate because—I am sorry, that the individual who referred this press person to the White House had gotten the information from an irate DEA source who was irate because the case had been leaked.

North is now calling to say he should not be identified as a person in the White House who has knowledge of this case, and he did not leak the information, and the proof of his not leaking the

information was to the effect that the facts were not accurate in the story.

My response to him was that that, to my knowledge, was a standard way to cover your tracks, so to speak. I didn't accept that statement from him. So I am reminded that that occurred on the afternoon of the 17th, after my briefing of Carlton Turner.

Mr. HUGHES. Before that telephone conversation, after Caffrey went over to the Executive Office to meet with Clarridge and Oliver North and others, Oliver North called you on that occasion too, did he not? He was going over——

Mr. MONASTERO. I think that he did, but I don't have any firsthand information or have nothing to refer to to indicate that that is a fact, but I believe that is the case.

Mr. HUGHES. Didn't he call you to tell you he was unhappy because Caffrey was resisting his efforts to make it public? He was telling you in that conversation why it should be public, because a contra vote was coming up, and he needed to get it out. Isn't that so?

Mr. MONASTERO. I believe that that occurred. As I say, I have nothing to substantiate that or to——

Mr. HUGHES. Nothing in writing.

Mr. MONASTERO. Nothing in writing, but my recollection is now—I understand from your visual aids that Mr. North kept fairly good notes. It may show in his notes that that occurred, and if it did——

Mr. HUGHES. Isn't it a fact on that occasion you reiterated to Mr. North what was at stake? We had a major operation, major cartel figures that you were trying to, in fact, compromise, arrest, that you had not finished the investigation and that you were unwilling to do that?

Mr. MONASTERO. As I say, I have a recollection of that. Now I could be confused with the call on the 17th. That is very possible. But I did have a recollection which I referred to in a conversation with one of your staff members, that I believe did occur. It is without the benefit of notes.

Mr. HUGHES. In fact, you told our staff it was just a couple days after North's briefing with Ron Caffrey that he called.

Mr. MONASTERO. That is the best recollection that I have.

Mr. HUGHES. He was going over Caffrey's head.

Mr. MONASTERO. That is the best recollection that I had, that is correct.

Mr. HUGHES. Mr. Westrate, you indicated that Members of Congress may have been told about this operation, at some point you had some information. Who told Members of Congress?

Mr. WESTRATE. Mr. North indicated he had discussed in general terms the situation and had inquired as to the Member's view as to whether or not this would impact upon their vote.

Mr. HUGHES. Who was the Member? Did he tell you?

Mr. WESTRATE. Yes, he did.

Mr. HUGHES. What was the Member's name?

Mr. WESTRATE. Senator Chiles and Congressman Fascell.

Mr. HUGHES. Congressman Fascell. And he talked to them about the operation, and you say Mr. North asked whether or not it

would make a difference if they got this information out publicly on the contra vote?

Mr. WESTRATE. Yes. But he also said he did not discuss it in detail.

Mr. HUGHES. So they didn't know in detail what the operation was all about. They certainly didn't have any photographs.

Mr. WESTRATE. I wouldn't think so.

Mr. HUGHES. Because the photographs had just been delivered about the 27th of June.

Mr. WESTRATE. That is correct.

Mr. HUGHES. So they wouldn't have received the photographs. Whoever leaked it had photographs, right? Because the Washington Times carried a photograph.

Mr. WESTRATE. I would have to review that, sir. I don't remember if the story had a photo.

Mr. HUGHES. I am sorry. It wasn't the Washington Times.

Mr. WESTRATE. I didn't think so.

Mr. HUGHES. I stand corrected. It was the Miami Herald.

Mr. WESTRATE. That was some time later, though.

Mr. HUGHES. That was in early August.

Mr. MONASTERO. That was as a result—yes.

Mr. HUGHES. That was probably as a result of the Paula Hawkins Conference early on in 1984.

Mr. MONASTERO. Yes. I can clarify that just a little bit, Mr. Chairman. I referred to that discussion. I didn't know this at the time that I spoke with your staff member, but I referred to that discussion that Mr. North had with the Congressman in our telephone conversation, mine and North's, and I believe the reference was that he put it to them in a hypothetical way. In other words, supposing this were to happen, and I take from that that it did in fact occur before the fact.

Mr. HUGHES. So, in fact, what was related to the Members of Congress, Mr. Fascell and Mr. Chiles, was just a hypothetical, suppose this were to develop.

Mr. MONASTERO. Yes.

Mr. HUGHES. What effect would that have on the contra vote?

Mr. MONASTERO. Right.

Mr. HUGHES. I understand.

Well, there is no—but your recollection is that Mr. North at some point wasn't satisfied with that, because he tried to persuade you otherwise, did he?

Mr. MONASTERO. As I say, when I spoke with your staff member, I did not have access to a note that I made of a conversation. I could, in all honesty, have these two conversations confused. In other words, I may have only had one conversation with North on the 17th. It was a heated conversation.

But I have a vague recollection of him trying to convince me that what he and Caffrey discussed should be reconsidered.

Mr. HUGHES. Well, the heated conversation was over the operation, was it not?

Mr. MONASTERO. Yes. I wish that his notes, that Colonel North's notes reflected some discussion with me, and maybe they do. I haven't looked at them.

Mr. HUGHES. Well, the only controversial part of this whole operation, as far as the National Security Council and Oliver North was concerned, was over whether or not it should be released, the information released publicly. Were there any other controversial aspects of it?

Mr. MONASTERO. Not that I am aware of, no.

Mr. HUGHES. That was the only controversy?

Mr. MONASTERO. As far as I am aware.

Mr. HUGHES. So when you say you had a heated discussion, it had to be over that issue.

Mr. MONASTERO. We may have had two heated discussions. In fact, every conversation I have ever had with Ollie has been heated. But they may have been, you know—I know there is a reference to my discussion with him on the 17th. I don't know whether there is another reference to my discussion with him, say, on the 6th or 7th, or whenever the briefing occurred. I would feel a lot stronger about it if he had a note on it.

Mr. HUGHES. But you do have a distinct recollection of having a heated conversation with Oliver North on the telephone.

Mr. MONASTERO. Yes.

Mr. HUGHES. Over this operation.

Mr. MONASTERO. Yes.

Mr. HUGHES. The only thing that was in question was whether or not it should be released publicly.

Mr. MONASTERO. Well, the second thing that was in question in the second discussion was the leak. In other words, that was after.

Mr. HUGHES. I see. I have no further questions.

Mr. McCollum?

Mr. MCCOLLUM. I do have a couple follow-up questions. I would like to ask Mr. Westrate, first of all, is it uncommon in the dealings of DEA to have decisions that you have to make over policy concerning the operational side of your effort and the national security interests of the United States?

Mr. WESTRATE. Well, I think more and more in recent years we have seen the entire collection of drug law enforcement change in that we are dealing at a level that we have never before dealt. That is involving investigations of high-level officials in foreign countries. Investigations that cause impacts.

We can look at the decision in Colombia with their judicial system, for example, where it really is dysfunctional. So there is a totally new level at which we function. When we function at that level, then the things that we do impact on other people's interests and the things that other people do can impact on our interests.

I can only point you to Panama as a classic example of where we are today in drug law enforcement. So the line today is not nearly as clear as it used to be. It used to be there was a fairly clear line as to where the investigative criminal process stopped in foreign policy. Today more often than not they get tangled up, and, therefore, I think we will find ourselves conferring more and more with the other elements of our government, and I think that is only proper because to do otherwise would not be—would not allow the administration, whatever administration, to have a consistent policy.

Mr. McCOLLUM. Well, I can see the difficulty you are placed in in those situations, whether it be the one we are faced with here, the Barry Seal case, or whether it be one with Panama, or whether it be one with other parts of the world. We are going to continue to have those. We had them back then, and we had them, as the paper said this morning, as far back as the Carter Administration and the Canal and drugs.

Mr. Monastero, in this discussion and dialogue that has taken place over your conversations with Colonel North, I am a little confused. I just want to make sure my confusion is straightened out. He has some notes, and I guess you have been looking at those, Oliver North's notes, for dates. Did you keep independent notes yourself of these phone conversations as such?

Mr. MONASTERO. I did—I am informed now, or yesterday, that I did make a memorandum of the call on the 17th.

Mr. McCOLLUM. Have you had a chance to look at that memorandum to refresh your recollection?

Mr. MONASTERO. Yes.

Mr. McCOLLUM. That is the basis on which you are telling us this?

Mr. MONASTERO. Yes.

Mr. McCOLLUM. The 17th we are talking about is the 17th of July of 1984?

Mr. MONASTERO. That is correct.

Mr. McCOLLUM. That is the day after the news article appeared?

Mr. MONASTERO. The day it appeared.

Mr. McCOLLUM. The reason that precipitated the conversation was that article?

Mr. MONASTERO. Not according to Colonel North. The precipitating reason was allegedly someone in DEA had referred a reporter to the White House indicating that Colonel North could be a source of information for this case, in other words to expand on the story that was in the paper. And he was telling me that that was improper for somebody from DEA to have done that, that he should not be referred to as even being at the NSC, and furthermore, that he was not the source of the leak that appeared.

Mr. McCOLLUM. And then the other conversation you are talking about took place prior to the leak. It was back in June?

Mr. MONASTERO. No. It was probably in early July, and I can't pin down the date that Mr. Caffrey went to brief him. I don't know what that date was, and you don't know?

Mr. CAFFREY. No, I don't. I only remember that it was prior to the money trip down to Nicaragua.

Mr. McCOLLUM. Mr. Westrate testified that he went down to two meetings, one on the 27th of June, one on the 29th of June. I was under the impression from Mr. Westrate's testimony that the meeting on the 29th was the one Mr. Caffrey attended with Mr. Westrate. That is not true?

Mr. MONASTERO. That is not the same meeting that Mr. Caffrey testified about. Mr. Caffrey said he couldn't recall that meeting because he didn't do the briefing.

Mr. McCOLLUM. So, in other words, there were two—there were really three meetings we know of here. One you were attending.

Mr. MONASTERO. No, no. I never attended any.

Mr. McCOLLUM. There were two meetings Mr. Westrate attended, the 27th and 29th of June. There was a third meeting, we are not sure of the precise date, that Mr. Caffrey attended.

Mr. MONASTERO. If I had to guess, it would be the 6th of July, that is just picking it out of the air.

Mr. McCOLLUM. Was it one of these meetings or a telephone conversation that Senator Chiles and Mr. Fascell's names were mentioned?

Mr. MONASTERO. At the meeting where Mr. Westrate briefed the people at the White House, there is reference that North made reference to his discussion with Senator Chiles and——

Mr. McCOLLUM. Mr. Westrate, that is in your notes?

Mr. MONASTERO. Mr. Westrate made me aware of that. I am now reminded, through a memorandum.

Mr. McCOLLUM. Is that the memorandum that is refreshing both of your recollections here today with regard to that meeting? Is that correct?

Mr. MONASTERO. Mr. Westrate made a memorandum of that meeting in which he referred to a Senator, one Senator; however, in the memorandum which I made of the call to North, I referred to a discussion which Dave had briefed me on in which North mentioned both the Senator and a Congressman. So that is how I knew about it, and I am——

Mr. McCOLLUM. Congressman Fascell's name comes from your recollection of that?

Mr. MONASTERO. It comes from my memorandum.

Mr. McCOLLUM. Your memorandum of the conversation?

Mr. MONASTERO. My memorandum of the conversation of the 17th, right.

Mr. McCOLLUM. The bottom line of all of this, as I see it, is that we have all kinds of potential sources for the leak, a lot of suspicion earlier this morning that maybe the CIA leaked this. That was the first implication. In fact, that wire story that Mr. Lungren had, AP had it dated 1/35, that was before the testimony was even completed by Mr. Jacobsen this morning that the reporter got on the wire with that. That would have you believe that was the source of the leak.

Then we had a little later his indication and some further implication here that maybe Oliver North was the source of this leak or somebody at the White House.

I suggested, although I have no corroboration for it, the Pentagon, from the evidence we heard this morning, might have at least had the information and the ability to leak it, and here we have at least two congressional figures who might have had the opportunity—we are not suggesting they did—but at least two we are aware of.

I will simply say as a matter of general interest, from my experience with looking at Iran-Contra, it was not uncommon for Members of Congress to be aware, especially Intelligence Committee Members of both Houses, of things like this from Colonel North. So it may well be that more than just Congressmen Fascell and Senator Chiles were aware of this.

What bothers me——

Mr. MONASTERO. Congressman, in all fairness, I don't think I could draw that supposition. I think in all fairness to them, they were briefed before he actually delivered the drugs back to the United States. North was aware of the potential here that we were going to do this and what was going to happen.

Mr. MCCOLLUM. It may well be Senator Chiles and Congressman Fascell, from the conversations North had with you, did not have the particular knowledge. I don't know.

Mr. MONASTERO. No.

Mr. MCCOLLUM. My point is I do know, from my experience involved in Iran-Contra and involved in the whole debate over the contra issue, that it was not uncommon for Colonel North to give much more detailed briefings to Members of Congress, particularly Intelligence Committee members, on an individual basis, not uncommon at all. We are not about, in our hearings, to be able to discover all of this.

The bottom line of it is, to me, we don't know who leaked this. It is unfortunate the leak occurred. We can speculate all day about who leaked it, the possibility or the purpose or the motives or whoever might have done it, but we don't know. No one here today has been able to tell us anything from actual knowledge as to who did leak that information.

Anyway, Mr. Chairman, I appreciate the chance to ask the questions. I think we have had an interesting run at this. I am not sure we have reached a point where many conclusions can be really drawn.

Mr. HUGHES. I just have a couple other questions. I think it is very unfair to suggest two Members of Congress mentioned had the details that were provided in the story that was leaked.

Mr. MONASTERO. I think my testimony, Mr. Chairman, was that they didn't have the details.

Mr. HUGHES. They did not have.

Mr. MONASTERO. That is right.

Mr. HUGHES. So they can be ruled out as a source because they didn't have the information.

Mr. MONASTERO. Not as far as I know.

Mr. HUGHES. DEA certainly would have no reason to leak an operation they considered to be a major operation. In fact, if anything, the DEA was justifiably outraged over the leak. The only agencies that really had some reason to leak was—and suggested it—was the National Security Council, Oliver North, and the CIA to Mr. Jacobsen. The CIA wanted to get it out. Now, the testimony is clear, and it is consistent throughout, that those are the two agencies that wanted to get it out.

Now, one additional question, Mr. Monastero. When our investigators talked with you, you related to them about a telephone conversation that took place a couple days after Mr. Monastero sat down with Mr. North.

Mr. MONASTERO. Mr. Caffrey.

Mr. HUGHES. Mr. Caffrey sat down with Mr. North.

Mr. MONASTERO. It may have been the same day. I don't know.

Mr. HUGHES. Well, Mr. Caffrey briefed them, from his testimony, after the operation came back, in fact when the photographs were being developed. That would have to be about June 26, which was

the date he came back, the early morning hours of June, the 27th, of 1984.

Mr. WESTRATE. The photos were developed and in hand on the 27th.

Mr. HUGHES. The 27th of June of 1984. Mr. Caffrey, in fact, testified that they were already aware of the photographs. That was his impression, when he arrived at this briefing. CIA, in fact, produced the photographs at the briefing that were passed around. Is that not your testimony, Mr. Caffrey?

Mr. CAFFREY. I don't recall if they produced their photos to be truthful with you. I had photos with me, and I left them behind.

Mr. HUGHES. You were under the impression they had the photographs.

Mr. CAFFREY. They had the plot. They knew about the investigation.

Mr. HUGHES. Now a couple days after that, you received a phone call from Oliver North he wasn't happy with Mr. Caffrey.

Mr. MONASTERO. What you say is true, and I am trying to reconstruct this as best I can, but it is not my recollection—it may prove to be the case—but it is not my recollection now the issue of getting the story out came out immediately after they came back with photographs. I think that built over at least several days. I believe that there was another meeting which Mr. Caffrey went to, perhaps with only North or maybe a very limited number of people, at which this discussion took place, and it was probably in early July. Now that is supposition on my part. I don't have anything to substantiate that.

Mr. HUGHES. There is no question it was Oliver North trying to get the photographs out at that point. Is there any question in your mind about that?

Mr. MONASTERO. There seems to be no question in my mind about his interest in getting the story out.

Mr. HUGHES. The Pentagon didn't call you to get it out, did they?

Mr. MONASTERO. No, the Pentagon did not.

Mr. HUGHES. And the CIA?

Mr. MONASTERO. No.

Mr. HUGHES. That is all I have. Thank you very much. You have been helpful.

That concludes our testimony for today. The subcommittee stands adjourned.

[Whereupon, at 5:15 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

ENFORCEMENT OF NARCOTICS, FIREARMS, AND MONEY LAUNDERING LAWS

FRIDAY, SEPTEMBER 23, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to call, at 10:15 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Smith of Florida, McCollum, and Gekas.

Staff present: Hayden W. Gregory, counsel; Eric E. Sterling, assistant counsel; Paul McNulty, associate counsel; James Dahl and Enrico Verdolin, investigators; and Phyllis Henderson, clerk.

Mr. HUGHES. The Subcommittee on Crime will come to order.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography or by other similar methods. The Chair's normal practice, in accordance with Committee Rule 5(a), is to grant permission unless there is an objection.

Committee Rule 5(a)(2) provides that no witness served with a subpoena by the subcommittee shall be required against his or her will to be photographed or to have his image videotaped or broadcast by television or radio. Our first witness is appearing pursuant to a committee subpoena and has requested that he not be photographed.

Am I correct in that?

Mr. PALMER. That is correct.

Mr. HUGHES. Limited permission will be granted to photograph this hearing and to cover it by television broadcast on the absolute condition that no photographs are taken or video images made of the witness.

I ask the members of the news media if anyone has any question about the extent of the committee's permission to cover this hearing at this time. Does anybody have any question about the ground rules? No television, no photographs and no radio broadcasts, no audio taping.

Without objection, it is so ordered.

Our witness this morning is Michael Bernard Palmer. Welcome.

Pursuant to clause 1 of rule 11 and clause 1 of rule 10 of the Rules of the House, this is an oversight investigation of enforcement of laws relating to narcotics, money laundering and firearms.

Pursuant to clause 2 of rule 11 of the Rules of the House of Representatives, copies of the Rules of the Committee on the Judiciary and clause 2 of rule 11 of the House of Representatives have been made available to the witness and are available at the witness table.

Mr. Palmer, you have a right to counsel to assist you in the course of this morning's proceedings. Are you accompanied by counsel?

Mr. PALMER. Yes, I am.

Mr. HUGHES. I wonder if counsel would identify himself.

Mr. KLEIBOEMER. Axel Kleiboemer.

[Witness sworn.]

Mr. HUGHES. You may be seated.

Mr. Palmer, you are present today pursuant to subpoena which has been issued by the Subcommittee on Crime. It was signed by Judiciary Committee Chairman Peter W. Rodino, Jr., on October 30, 1987, and was attested to by the Clerk of the House, Donald K. Anderson. That subpoena compels you to be here today.

Let me ask you a question. When did you first go to Colombia?

TESTIMONY OF MICHAEL BERNARD PALMER, CONFIDENTIAL INFORMANT, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY AXEL KLEIBOEMER, COUNSEL

Mr. PALMER. Mr. Chairman, I respectfully refuse to answer the question on the basis of my grounds, my right against self-incrimination.

Mr. HUGHES. Mr. Palmer, let me advise you that the Chief Judge of the U.S. District Court for the District of Columbia has issued an order regarding your testimony before this subcommittee. I provided a copy of this Order to your counsel.

Counsel, have you received a copy of the order?

Mr. KLEIBOEMER. Yes, Mr. Chairman.

Mr. HUGHES. Mr. Palmer, I am going to read the order to you and, for the record, the Order is captioned in the U.S. District Court for the District of Columbia, entitled House Subcommittee on Crime, U.S. House of Representatives, Washington, DC 20515, Miscellaneous No. 88-186, filed June 7, 1988, Clerk of the U.S. District Court for the District of Columbia.

The order reads as follows, and I quote:

On consideration of the application by the House Subcommittee on Crime of the Committee on the Judiciary and the memorandum of points and authorities and exhibits in support thereof, the Court finds that the procedural requisite set forth in 18 U.S.C., Section 6005, for an Order of the Court have been satisfied. Accordingly, it is ordered that Michael Bernard Palmer may not refuse to provide any evidence in proceedings before the House Subcommittee on Crime on the basis of his privilege against self-incrimination.

It is further ordered that no evidence obtained under this Order or any information directly or indirectly derived from such evidence may be used against Michael Bernard Palmer in any criminal case except a prosecution for perjury, giving a false statement or otherwise failing to comply with this Order.

The order is signed by Aubrey Robinson, Jr., U.S. District Court, dated June 7, 1988.

This order, by its terms, removes your privilege against self-incrimination. In light of the order, I direct you to respond to the

questions that will be posed to you and to all other questions that will be posed to you by the members and staff of this subcommittee.

Are there any questions?

Mr. PALMER. No, sir.

Mr. HUGHES. In other words, you are directed to answer the questions, and you are liable for perjury or false swearing or other violations of the Order and for any of those purposes.

Counsel, have you advised Mr. Palmer?

Mr. KLEIBOEMER. Yes. Per the order which you have communicated to us, Mr. Chairman, I will advise my client to respond to the pending question.

Mr. HUGHES. Truthfully.

Mr. KLEIBOEMER. Of course. He has been sworn, Mr. Chairman.

Mr. HUGHES. I ask the committee reporter to repeat the question and I direct you to respond.

[Whereupon, the pending question was read by the reporter as above recorded.]

Mr. HUGHES. I direct you to answer the question.

Mr. PALMER. Mr. Chairman, are you referring to the very first time that I visited the country?

Mr. HUGHES. Yes.

Mr. PALMER. I believe it was in—if my memory serves me correct, it was approximately in 1976. I don't recall the month.

Mr. HUGHES. I am going to ask chief counsel, Hayden Gregory, who you are familiar with, who has interviewed you and who has conducted and led this investigation, to examine you, and I direct you to respond to his questions. After he has laid the basic testimony, then Members of Congress will have an opportunity to question under the 5-minute rule. Mr. Gregory.

Mr. GREGORY. Thank you, Mr. Chairman.

Mr. Palmer—

Mr. HUGHES. Before the gentleman pursues the questioning, I don't know whether the gentleman from Florida has an opening statement. Do you?

Mr. LAWRENCE SMITH. No, Mr. Chairman. Thank you.

Mr. HUGHES. The gentleman from Pennsylvania?

Mr. GEKAS. No.

Mr. HUGHES. If I might, before any other questions are asked, let me just indicate that today the Subcommittee on Crime begins the hearing phase of our oversight investigation of the use of narcotics offenders as confidential informants to help DEA apprehend ongoing drug traffickers. In short, this technique involves the use of people who used to be in the drug smuggling business to catch those who still are.

The case we are examining, to which DEA gave the title "Operation Intruder," was an operation that lasted almost a year and a half and culminated in the seizure of some 140,000 pounds of marijuana and 570 kilos of cocaine and the arrest and conviction of a number of traffickers.

From what we have learned, it appears that the two confidential informants who worked the case played a prominent role in its design, execution and success. It appears that they selected the targets of the investigation. They developed a strategy for execution of

the operation and, according to testimony which we will hear from DEA agents working the case, insisted on carrying out certain controversial elements of that strategy in defiance of DEA instructions. One of those CI's, a long-time drug smuggler who was under indictment himself, was cooperating with DEA in efforts to obtain relief from the charges pending against him.

Drug trafficking is a dirty business, and our drug enforcement agents need to utilize a full range of weapons and techniques to keep ahead of the traffickers. The use of "flipped" defendants—"flipped" meaning defendants who, after caught, agree to work for law enforcement—who have access to supply, transportation and distribution networks from firsthand experience, is a legitimate technique.

However, the use of former criminals in such a role is fraught with dangers.

An inevitable first question which must be asked, and must be the subject of constant vigilance, is whether the individual will revert to drug trafficking. The need for vigilance is compounded by the fact that law enforcement, by choosing to use former offenders, places them in a position where they have a lot of opportunity to continue criminal conduct and a lot of cover for it if they do.

The opportunity for "cover" is particularly present in regard to investigations being conducted by law enforcement agencies other than the one employing the CI. If the U.S. Customs, for example, suspects that a person who, unknown to them is working for DEA, is engaged in drug trafficking, the individual may be able to falsely represent that his "off the reservation" purely illegal activity is part of his work for DEA.

The problem is made more acute by the fact that law enforcement agencies are frequently competitive with another. They are not inclined to keep their competitors informed of their activities, even when they overlap.

The problem is especially acute in regard to CI's. Agencies frequently compete for CI's and for cases they can help make. As testimony in these hearings will illustrate, agencies sometimes behave like corporate personnel headhunters or professional sports organizations bidding for free agents. On the other side of the equation, CI's frequently peddle claims of cases they can make from agency to agency, encouraging a bidding war for their services.

In addition to integrity, there is the issue of control. CI's frequently travel to foreign countries without the presence of their handlers to conduct negotiations with drug traffickers and to carry out operations on behalf of law enforcement. In fact, it is frequently difficult to distinguish the work they do with that which is done by our professionally trained sworn officers.

One issue that arises from this is that of the degree of responsibility and liability, both legal and moral, of the United States to and for these individuals.

Under international agreements and our own policy guidelines, is there a lesser requirement for notification to other countries of the presence of CI's in their countries than there is for sworn agents? If so, does this make good sense? What obligation do we have to them, if any, if they deviate from their assigned role and are arrested? When does the sponsoring agency have an obligation

to itself prosecute the CI for such deviations? Can the rules in this regard be bent a little bit if he is also producing for us?

Another question is that of the compensation to which they are entitled. This can take several forms. One is, of course, money.

Should traffickers be entitled to be paid by law enforcement as soon as they are caught and agree to go to work for the other side? DEA rules do not permit them to be paid with government funds under these circumstances, but what about allowing them to keep money paid to them by the traffickers—often huge amounts reflecting the going rate in the underworld for the illegal activities involved? Should we allow former traffickers to become millionaires from drug trafficking activities, even if the activity is an undercover law enforcement operation and no government funds are expended?

Another major consideration in information compensation is that of relief from criminal charges against them.

Suppose a trafficker who has brought 10,000 kilos of cocaine into the United States during his criminal career is caught and cooperates with the Government. Suppose he ordinarily would receive a 10-year sentence for this smuggling, and would ordinarily serve 5 years in prison. Support further that his cooperation leads to the seizure of 10,000 kilos and the conviction of an equal-level trafficker. Has he paid his debt to society? If so, what sort of message does this send? Suppose the trafficker that CI number one brings in can himself bring another equal-level trafficker? Does he also qualify for a reduced or no sentence? Where does it end?

As we will see from these hearings, something of this nature seems to be taking place, although on an ad hoc basis and without any specific cost/benefit ratios being applied.

If we do have such a system, what implications does it have for the deterrent value of the risk of being caught in drug trafficking? It may be that the greater the culpability and the need for severe penalties for deterrence, the greater the opportunity for the defendant to give information against others and avoid or reduce his liability.

Another dimension of the same issue concerns lower-level defendants—mules, couriers, “bag men” and the like—who are not in a position to give useful information against high-level people. Do they get a “normal” sentence, with no opportunity for relief?

The subcommittee received telephone calls from the mother of a minor defendant in this case. She had traveled from England to try to be of whatever assistance she could to her son in his trial. The son, John Bevan, had worked for one of the major defendants as a crew member of a pleasure boat he owned. He was enlisted by his boss to make a delivery of money to what turned out to be a DEA undercover agent.

Mrs. Bevan told us she knew her son had done wrong and deserved to be punished but that she was baffled by the American system of justice. She could not understand why her son was threatened with a 15-year sentence and forced to agree to a 5-year sentence—his lawyer advised he would get a more severe sentence if we went to trial—when a large-scale, long-time trafficker had his case dismissed entirely because he cooperated after being caught. We had no satisfactory answer for her.

These are just some of the many issues implicated in the activities we will be examining in our hearings beginning today.

Our first witness, Michael Palmer, is eminently qualified by experience to provide information to the subcommittee on these matters.

At this point I want to conclude my statement by saying that this subcommittee has looked at this and other instances of this type of bargaining for some time, but the Palmer matter is particularly troublesome and should be of great interest to the subcommittee.

I now direct chief counsel to pursue the questioning.

Mr. GREGORY. Mr. Chairman, shouldn't we recess for the vote?

Mr. HUGHES. I guess we have about eleven minutes. Why don't we do that. That is a good idea. We will recess and come right back. We have to vote.

Mr. KLEIBOEMER. Mr. Chairman, will the cameras be turned off during the recess?

Mr. HUGHES. I have directed that the cameras—even during the recess, there will be no photographs, no video of Mr. Palmer.

The subcommittee stands in recess.

[Recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order.

Mr. Gregory.

Mr. GREGORY. Mr. Palmer, on August 8th you were interviewed by the subcommittee staff; is that correct?

Mr. PALMER. August 8 of this year? Mr. Gregory, it was approximately that time. I don't recall the exact date.

Mr. GREGORY. The date is not essential. But you were interviewed previously by the staff and provided with a transcript of that interview; is that correct?

Mr. PALMER. My counsel was provided with a transcript. He subsequently gave it to me to make correction, and actually it took me quite a while to go through it. I believe he asked for a copy but was never provided it. I have about 27 pages of corrections. So I haven't had a chance to review it again.

Mr. GREGORY. My question went to what progress you made on reviewing that and if you were now prepared to execute that and swear or affirm to the accuracy of the statements you made.

Have you completed your review?

Mr. KLEIBOEMER. May I respond to that, Mr. Chairman?

Mr. Chairman, some time ago, in order to expedite the review process, we asked and requested from Mr. Gregory that the subcommittee provide us with a copy of the transcript so both of us could work on the transcript simultaneously.

I wonder whether that request was ever taken up with you, because it has taken a considerable amount of time to go through the transcript. It is full of places where corrections have to be made. I have not yet had a chance to read the transcript because it took my client a substantial amount of time to read the transcript and to make the corrections.

That is the response to one part of Mr. Gregory's statement.

The other response is this. Mr. Gregory took this particular statement in the context of a staff interview. There was no member of the subcommittee present at the time my client was interviewed.

At that time Mr. Gregory said: we, as the staff of this committee, do not have the authority to take sworn statements, but there is a provision in the U.S. Code which provides that instead of going to a notary public, if you have to make a sworn statement for any purpose under the laws of the United States you can just attach a statement to the effect that you make this a sworn statement. He said after Mr. Palmer has read the transcript, he should go ahead and execute a statement tendering this transcript as a sworn statement.

In answer to that, several weeks ago I notified Mr. Gregory that, given the fact that the staff of the subcommittee doesn't have the authority to take sworn statements, I would instruct my client to certify the accuracy of the transcript in the ordinary fashion, without appending a statement to the effect that this is sworn testimony.

So I think Mr. Gregory's question at this time—he knew the answer in advance.

Mr. HUGHES. Let me see if I understand where we are.

You have corrected much of the transcript, as I understand it.

Mr. KLEIBOEMER. Yes, Mr. Chairman.

Mr. HUGHES. Do you have it with you today?

Mr. KLEIBOEMER. I have a copy of the transcript, and I also have 21 pages of handwritten corrections which my client has so far prepared. He isn't through yet and I haven't done it yet.

Mr. HUGHES. I see. You have not corrected the transcript.

Mr. KLEIBOEMER. That is correct.

Mr. HUGHES. Well, I think the point is moot. Your testimony is that you are not prepared to certify the transcript. You do have, you say, some pages of corrections, 21 pages of corrections.

Mr. KLEIBOEMER. Handwritten after. Some typing, I don't know.

Mr. HUGHES. Handwritten in Mr. Palmer's handwriting or your handwriting?

Mr. KLEIBOEMER. That is correct.

Mr. HUGHES. Are you prepared to make available to us the corrections Mr. Palmer has indicated in his own handwriting to us?

Mr. KLEIBOEMER. At the present time, no.

Mr. HUGHES. Counsel will proceed.

Mr. GREGORY. Mr. Palmer, you are a pilot, isn't that correct, an airline pilot? You are a qualified airplane pilot?

Mr. PALMER. I am a qualified airplane pilot, yes.

Mr. GREGORY. Can you sketch your professional history as an airline pilot? I have in mind your work for airline companies.

Mr. PALMER. Yes, sir, approximately 1969, I went to work for TACA Airlines in Central America and flew for them for two years. After leaving TACA Airlines, I went to work for Delta Airlines and was in their employ for 13 years.

After that period of time, I have not been employed as a professional airline pilot.

Mr. GREGORY. Did you at some point become involved in drug smuggling?

Mr. PALMER. If you are referring to the period of time back in the beginning of 1976, the answer to your question would be yes.

Mr. GREGORY. In other words, your answer is yes, in 1976?

Mr. PALMER. Yes, sir.

Mr. GREGORY. What was the nature of that entry into trafficking activity?

Mr. PALMER. That was a period of time in my life that I am not particularly proud of; however, I was sort of swept up in what at the time seemed to be a rather harmless and exciting activity. Once I was introduced to it, I never looked at it from the standpoint of the harm it could possibly do to the end users of the product we brought in; all I saw were packages on an airplane, and I didn't know what marijuana looked like——

Mr. HUGHES. Counsel, the question was the nature of the trafficking. Try to listen to the question and respond to the question. Counsel?

Mr. PALMER. Yes, Mr. Chairman.

Mr. GREGORY. I take it from your answer that it involved marijuana; is that correct?

Mr. PALMER. Would you repeat the question, please?

Mr. GREGORY. I take it from the answer that you began that the substance involved was marijuana; is that correct?

Mr. PALMER. That is correct.

Mr. GREGORY. Where you working as an individual entrepreneur working for some organization?

Mr. PALMER. I was a pilot that worked for the Carroll-Vogel organization.

Mr. GREGORY. This is the Jerry Carroll-Michael Vogel?

Mr. PALMER. Yes, it is.

Mr. GREGORY. Were they both involved at the time you first became involved?

Mr. PALMER. Yes, they were.

Mr. GREGORY. Your function at that time, you say, was as a pilot?

Mr. PALMER. Yes, sir.

Mr. GREGORY. What kind of planes were you flying? What size planes?

Mr. PALMER. They were Piper Navajos, relatively small planes.

Mr. GREGORY. How many different planes do you recall flying on those undertakings?

Mr. PALMER. Two.

Mr. GREGORY. OK.

Mr. PALMER. Piper Navajo and a Beech Queen Air.

Mr. GREGORY. What would be the marijuana capacity of each of those?

Mr. PALMER. The Navajo could safely take about anywhere from 800 to 1,100 pounds, and the Queen Air anywhere from 12 to 1,500.

Mr. GREGORY. How many such flights did you make on those planes?

Mr. PALMER. In my entire career in that activity, my recollection is approximately 30 flights.

Mr. GREGORY. That is 30 flights you personally participated in?

Mr. PALMER. That is correct.

Mr. GREGORY. As a pilot or company pilot?

Mr. PALMER. As a pilot or company pilot, yes.

Mr. GREGORY. Were you responsible for organizing other activities on flights that you did not personally make, such as making ground arrangements?

Mr. PALMER. Is there a particular incident that you are referring to, or in the general sense? Is your question in the general sense?

Mr. GREGORY. I am talking about in your full—your total career in that activity, you have identified some 30 flights on these two planes that you personally flew on. My question was, were there other flights in which you served some other function other than pilot or company pilot?

Mr. PALMER. Well, the answer to your question is yes. There were a couple of times that I operated ground ratio at the landing site. The destination site for the airplane.

Mr. GREGORY. How many flights on other planes other than these two you have described? Larger planes such as DC-6? Did you participate in any such flights involving narcotics?

Mr. PALMER. Participate—those are the ones that I was referring to.

Mr. GREGORY. The ground crew involved these other flights?

Mr. PALMER. Yes, sir.

Mr. GREGORY. How much money would you estimate you made in total from this activity?

Mr. PALMER. Approximately, as I explained to Senator Kerry, as near as I could figure, probably \$3.5 million came and went.

Mr. GREGORY. In other words, that would be your share of it? \$3.5 million came and went?

Mr. PALMER. That is correct.

Mr. GREGORY. Is that correct? Was that income reported to the IRS?

Mr. PALMER. Not as drug smuggling income.

Mr. GREGORY. Was it reported as anything?

Mr. PALMER. A large percentage of it was.

Mr. GREGORY. How did you report it?

Mr. PALMER. Under miscellaneous income.

Mr. GREGORY. So what is the largest amount that you reported as income to the IRS in any one year?

Mr. PALMER. I am sorry, Mr. Gregory, I can't recall, you know, the exact figure.

Mr. GREGORY. Give us the best you can.

Mr. PALMER. Several hundred thousand dollars.

Mr. GREGORY. 200?

Mr. PALMER. More than that.

Mr. GREGORY. 500?

Mr. PALMER. Somewhere between two and \$500,000.

Mr. GREGORY. What year would that high figure be, if you recall?

Mr. PALMER. I really don't recall. I mean, you are asking me to speculate about something I haven't referred to in my preparation for your hearing.

Mr. HUGHES. Before counsel moves on, can you give us some idea of the approximate amount that you reported totally during the years you were trafficking?

Mr. PALMER. No, I can't, Congressman Hughes.

Mr. HUGHES. Well, did you report more than 50 percent?

Mr. PALMER. I would have to phrase it in this fashion, with all respect, I reported a large portion of my drug smuggling income on my—in my tax returns under miscellaneous income.

Mr. HUGHES. How did you determine how much you would report?

Mr. PALMER. I had no set formula.

Mr. HUGHES. You just picked an arbitrary figure?

Mr. PALMER. Yes.

Mr. HUGHES. Was it fair to say that you didn't report \$2 million?

Mr. PALMER. That would probably be a fair assumption, yes.

Mr. HUGHES. Is it fair to say that you didn't report \$1 million?

Mr. PALMER. No, it would not be.

Mr. HUGHES. So it would have been somewhere between \$1 million and \$2 million?

Mr. PALMER. It may have been.

Mr. HUGHES. Which is less than 50 percent. All right.

Mr. GREGORY. You mentioned in answer to the Chairman's initial question a trip to Colombia, your first trip to Colombia. Can you describe what the purpose of that trip was?

Mr. PALMER. We flew down to pick up a load of marijuana.

Mr. GREGORY. And this was in 1980—

Mr. PALMER. It was in 1976 or so.

Mr. GREGORY. 1976, OK. How many such trips did you make to Colombia?

Mr. PALMER. You are referring to 1976?

Mr. GREGORY. In total, in the course of this activity.

Mr. PALMER. Are you referring to the question that you have already asked me?

Mr. GREGORY. Yes, I am.

Mr. PALMER. Well, as I answered before, it was probably in the neighborhood of 30 trips.

Mr. GREGORY. They were all to Colombia? You mentioned 30 trips without specifying which one.

Mr. PALMER. I misunderstood your question, I was talking about the total number of trips, approximately 30; not 30 to Colombia, maybe 27 to Colombia, and the rest were Jamaica.

Mr. GREGORY. Eventually, you were arrested in Colombia; isn't that true?

Mr. PALMER. That is true.

Mr. GREGORY. What was the nature of the flight you were making at the time you were arrested?

Mr. PALMER. It was a smuggling trip for the Vogel organization.

Mr. GREGORY. And would you tell the subcommittee what—describe briefly what the series of events were that followed your arrest?

Mr. PALMER. Are you referring to the events that took place at the landing strip?

Mr. GREGORY. I am referring to the events there, and the judicial process in Colombia, yes.

Mr. PALMER. Excuse me just a moment.

[Witness confers with counsel.]

Mr. PALMER. Well, myself and the copilot I was with were arrested at the air strip. We were incarcerated for a period of 3 months, and we were released and we returned to the United States.

Mr. GREGORY. What course of action did you take as far as your—or what decisions did you make as far as drug trafficking at that time?

Mr. PALMER. I had about 3 months to think over what it was I had been doing with my life. I looked within and I didn't like what I saw. And I decided to change my life. I returned to the United States. I went to work for a company in Miami; set about the process of trying to clean up my life.

Mr. GREGORY. This company in Miami was Vortex; is that correct?

Mr. PALMER. That is correct.

Mr. GREGORY. Do you recall what month you affiliated with Vortex? This is 1985, correct?

Mr. PALMER. I returned from Colombia in September of 1985. I began working full time for Vortex.

Mr. GREGORY. What business was Vortex in?

Mr. PALMER. Aircraft leasing and charter.

Mr. GREGORY. What was your function with the company? Were you an officer of the company?

Mr. PALMER. I had a title as an officer of the company, Vice President.

Mr. GREGORY. What did you do?

Mr. PALMER. Pardon me?

Mr. GREGORY. What did you do for the company?

Mr. PALMER. Whatever my duties were, everything from typing letters to fueling airplanes to dispatching flights to marketing activities.

Mr. GREGORY. How many planes did Vortex have at that time?

Mr. PALMER. They had two aircraft, to my recollection.

Mr. GREGORY. Both DC-6s?

Mr. PALMER. Yes.

Mr. GREGORY. Do you recall the tail number or identification number of those?

Mr. PALMER. I don't recall what the identification numbers were at that time, no. I can give you several numbers that would probably be one of those.

Mr. GREGORY. Were either of those planes planes that you had any previous association with?

Mr. PALMER. Yes, they were.

Mr. HUGHES. Mr. Palmer, would you pull your microphone over and speak into it? It is hard for us to hear you.

Mr. GREGORY. Would you please identify those planes and tell us what your previous association with them was?

Mr. PALMER. Both of these airplanes that were part of the Vortex flight at the time, had had at one time or another been involved in drug smuggling activity. One of them was an aircraft that Mr. Carroll had purchased about 1977, and the second airplane was purchased by the Vogel group in 19—I believe it was 1983.

The airplane that was purchased by the Vogel group was used in illicit smuggling activity on two occasions that I know of. The other aircraft I believe was used on two occasions, also.

Does that respond to your question?

Mr. GREGORY. Yes, it does.

Was your previous association with those planes have anything to do with your becoming associated with Vortex?

Mr. PALMER. I am not sure I understand your question.

Mr. GREGORY. In other words, was it just a coincidence that the only two planes that Vortex owned were ones that you had some previous association with?

Mr. PALMER. Well—

Mr. GREGORY. Or was there a connection between the two? Did you come to know of Vortex because of those planes becoming owned by Vortex, for example?

[Witness confers with counsel.]

Mr. PALMER. Let me try to rephrase your question for you. Your question is, did I get a job with Vortex because of these two airplanes?

Mr. GREGORY. Yes. Did you come in contact with Vortex because of those planes, or—just answer that if you would, please.

Mr. PALMER. Well, the first—my initial meeting with Vortex was because I had purchased one of the two airplanes a couple of years prior to 1985. However, it was in disrepair. At one time, it had been a good airplane. It had good records.

I made an agreement with the owner of Vortex to help refurbish the airplane, and we would put it to work in his company. I guess the answer to your question would be, through the association, through our association, yes, I was given employment there.

Mr. GREGORY. And would that be the plane that you purchased from Ted Hansom?

Mr. PALMER. Yes. That would be the airplane.

Mr. GREGORY. That would be N-99114?

Mr. PALMER. I believe that was the number at that time.

Mr. GREGORY. Did that plane subsequently become 11VX?

Mr. PALMER. I believe that is the airplane you are referring to, yes.

Mr. GREGORY. And the other plane was 3434 Fox Trot; is that correct?

Mr. PALMER. Yes, it had that end number at one time.

Mr. GREGORY. Now, the FAA records indicate that Vortex purchased that plane from a Frank Wilson of Trans-Intercontinental Leasing. Do you know who Frank Wilson is, or was?

Mr. PALMER. Frank Wilson was a fictitious name that was used as a front for that particular airplane.

Mr. GREGORY. What was the real name of Frank Wilson?

Mr. PALMER. Well, I was Frank Wilson, I signed the paper.

Mr. GREGORY. Were you using that name because of the illegal activities that were involved?

Mr. PALMER. I used the name because that was the way that Carroll had taught us to sort of divorce ourselves from the equipment in case there was some sort of a problem. I picked the name out of the air, and that is the name that we used.

Mr. GREGORY. After your arrest and incarceration in Colombia, and your return to the United States, a decision to become clean, did there come a time when you offered your services to law enforcement agencies in the United States?

Mr. PALMER. Yes.

Mr. GREGORY. What was the first such contact you had? With what agency?

Mr. PALMER. The first law enforcement agency I had any contact with was the U.S. Customs Service.

Mr. GREGORY. What month was that?

Mr. PALMER. My recollection, it was in early 1986, yes.

Mr. GREGORY. Did you successfully work cases with Customs at that time?

Mr. PALMER. Well, let me explain how it was that this particular situation came up. We had had an inquiry one day at Vortex as to whether or not we could transport some controlled electronics outside the United States to an embargoed country. I got the call, and I decided I would call U.S. Customs and see if they were, because there was a—supposedly a violation there—to see whether or not there was or not.

They said yes, there was, and they wanted to talk to me about it. That was my first encounter.

Mr. GREGORY. How about other Federal law enforcement agencies? Did you have occasion to work with them as well?

Mr. PALMER. Yes, I have.

Mr. GREGORY. How about the FBI, for example?

Mr. PALMER. Yes, I have.

Mr. GREGORY. What was your first contact with the FBI in this regard?

Mr. PALMER. It was in Miami. There was a long-term friend of mine who was working in Miami and he was, he would be what you would call an informant, and he was working a cocaine case and asked my assistance, and I provided it to him, and we were working with the FBI on this particular case, and it ultimately ended up going to the DEA.

Mr. GREGORY. The case ultimately went to the DEA?

Mr. PALMER. Yes; it did.

Mr. GREGORY. Where in DEA? What office?

Mr. PALMER. McAllen, TX.

Mr. GREGORY. During the same time frame, and we are looking at the latter part of 1985, early 1986, did you have any contact with any other agencies in the United States?

Mr. PALMER. What time frame?

Mr. GREGORY. Late 1985, early 1986?

Mr. PALMER. Well, my duties with Vortex, at that time Vortex had a State Department contract, and I worked with Vortex on that particular contract.

Mr. GREGORY. Were you with Vortex at the time they got that contract?

Mr. PALMER. Yes, I was.

Mr. GREGORY. Did you negotiate the contract on behalf of Vortex?

Mr. PALMER. Well, there were some facets of the contract that I had to sign off on, only because Mr. Herreros wasn't in the office at that time. As far as negotiation went, it was pretty much cut and dried, what they wanted done and what the charges—

Mr. GREGORY. This is with the Nicaragua humanitarian assistance program?

Mr. PALMER. Yes.

Mr. GREGORY. Did you contact them when you were looking for business, or did the contact come from them to you?

Mr. PALMER. Contact came from them to us.

Mr. GREGORY. Who specifically contacted you, if you know?

Mr. PALMER. The first person within NHAO that I spoke to, I believe, was Phil Buechler.

Mr. GREGORY. Anyone else contact you before that on behalf of NHAO?

Mr. PALMER. Excuse me just a moment.

[Witness confers with counsel.]

Mr. PALMER. Is there a particular—I don't understand what it is that you are driving at. Are you looking for a person?

Mr. GREGORY. The question was, was there anyone else before Buechler contacted you on behalf of NHAO, anyone acting on their behalf that may not have been a member of NHAO?

Mr. PALMER. Back at that time, when that business came in, we were contacted by all kinds of people within NHAO, and other people. There were other contactors that worked NHAO business that contacted us.

At that time, I think NHAO had farmed their business out to probably seven or eight different air charter firms.

Mr. GREGORY. Was one of them Pat Foley?

Mr. PALMER. Yes, I had occasion to talk to Pat Foley.

Mr. GREGORY. What is Pat Foley?

Mr. PALMER. Pat Foley is another person that is in the air transportation business.

Mr. GREGORY. Did he contact you regarding the NHAO contract?

Mr. PALMER. I spoke to Pat Foley on several different occasions back in that time frame. As to whether or not—if your question is whether or not he was the initial contact that we received, I don't know, because I did not receive that call. I spoke to Pat back in that time, but it was in conjunction with talking to Phil Buechler.

Mr. GREGORY. What was the nature of the work that you were contracted to do, you meaning Vortex, for NHAO?

Mr. PALMER. We had to do a wide variety of things, from receiving trucks full of goods, storing them, packing them, inventorying them, delivering them, receiving ground handling of other aircraft company flights that came into Miami. That would pretty much describe it.

Mr. GREGORY. Did the contract involve making air drops into Nicaragua.

Mr. PALMER. On several occasions it did.

Mr. GREGORY. How many?

Mr. PALMER. I don't recall. It was less than five.

Mr. GREGORY. More than three and less than five?

Mr. PALMER. Without looking at my records, I would say that would be an accurate statement.

Mr. GREGORY. Any other flights other than the air drops? Any other deliveries that you made on behalf—in furtherance of that contract, other than these drops?

Mr. PALMER. Any other flights we made for NHAO other than the air drops?

Mr. GREGORY. That is right.

Mr. PALMER. I believe that we chartered another aircraft firm one time to bring the remainder of the supplies that they had at our warehouse to one of their depots in Central America.

Mr. GREGORY. Did you use Vortex planes for those air drop flights? Vortex-owned planes?

Mr. PALMER. No, we did not.

Mr. GREGORY. Why not?

Mr. PALMER. Vortex didn't own an aircraft that was capable of dropping supplies in flight, so we set about the process of locating an airplane that we could drop supplies out of, and found, I guess, a Korean war vintage C-54 that had a door that opened inside, that you could drop supplies out of.

Mr. GREGORY. To your knowledge, did any of those flights come under fire while they were in Central America?

Mr. PALMER. You are referring to the charter flights?

Mr. GREGORY. Yes, I am.

Mr. PALMER. Yes, I believe they did.

Mr. GREGORY. How many of them, to your knowledge?

Mr. PALMER. Two that we could confirm.

Mr. GREGORY. Were two damaged?

Mr. PALMER. That is correct.

Mr. GREGORY. Was the first flight one such flight?

Mr. PALMER. The first air drop that we made was a flight in which the aircraft was damaged by possible fire, that is correct.

Mr. GREGORY. Which other flight was damaged?

Mr. PALMER. My recollection is it was the last one.

Mr. GREGORY. Who selected the pilots for those flights? Was that part of the contract services Vortex provided?

Mr. PALMER. Yes, it is.

Mr. GREGORY. You mentioned a few minutes ago an operation that began with FBI and eventually was taken over by DEA. Could you briefly tell us what that involved?

Mr. PALMER. You are referring to the cocaine case that we did in early 1986; is that correct?

Mr. GREGORY. I think that is the way you identified it, yes.

Mr. PALMER. It began with the FBI working it in Miami, the U.S. Customs Service was called by the FBI to ask about my veracity. It was during that conversation that the Customs Service person that was contacted was asked by the—had asked the FBI what it pertained to, and he told him it was a narcotics trafficking case, and I believe what was told to me was that he briefly described it to him, and I got a call from Customs and they were somewhat upset that the case did not go to them, to the FBI.

And they, in fact, stated that there could be problems with the case, because Customs Service has a contingent of aircraft on patrol, and in the waters off of the Florida coast, and that the FBI was probably not going to notify them when the airplane came in with the drugs, and there could be a possibility of a confrontation on the air strip when the airplane arrived.

I told the Customs man that probably the best way to work that out was for him to work it out with the FBI, but that I would keep him informed of the progress in the case. It went along for a few weeks like that, and Customs and the FBI had a meeting, and it was decided at that meeting that the Customs Service would take control of the case.

As part of taking control, the Customs Service decided they wanted to move it over to the New Orleans area, and when they did, they sent Mr. Haas over to New Orleans with the case, as I

was busy working in Miami working on some of the other Vortex work.

I believe when he arrived over there, whoever it was with Customs there in New Orleans that he met, Mr. Haas apparently was insulted by him, and they sent the case out to McAllen, TX.

Mr. GREGORY. Mr. Haas sent the case out to McAllen, TX; is that correct?

Mr. PALMER. Well, what happened was—Mr. Haas isn't here to explain what happened, so I am paraphrasing what took place—he said he was insulted by the man from Customs who was sent out to debrief him.

Mr. GREGORY. In the interest of time, is it correct to describe Mr. Haas as a long-time associate of yours, a pilot who had also been a long-time confidential informant helping government agencies make smuggling cases; is that correct?

Mr. PALMER. No, it is not a correct statement.

Mr. GREGORY. What—give us your description, then, of Mr. Haas in that regard?

[Witness confers with counsel.]

Mr. KLEIBOEMER. Mr. Gregory, we are having a problem following the cascade of questions. I wonder if my client could have an opportunity to answer them one at a time?

Mr. HUGHES. I think that is what he is doing. I think the question is very clear, counsel attempted to save some time by describing Mr. Haas. Now, you tell us who Mr. Haas is. Who is Mr. Haas? You tell us whether Mr. Haas was an associate of yours, a friend of yours, apparently? Do you want to describe it further?

Mr. PALMER. Yes, I would like to describe it in the correct light. The way the question was phrased was that he was a long-time associate with him. He was on the inside, and I was working on the other side. Mr. Haas lived in Mississippi, I lived in Miami, I became acquainted with him when I flew with TACA Airlines some 20 years ago. It was a brief encounter of a couple of years, we were both young men.

I left TACA, he stayed on, but we were friends. And I heard from Mr. Haas on a frequency of once every two to three to four years. When he was in Miami, I happened to be there. It was very loose contact. So it would be unfair to describe him as a close associate of mine at that time.

I considered him to be a friend, but he is the type of friend that if he happened to be in town, he would give me a call, and we would have a beer or something.

Mr. HUGHES. So you had periodic contact with him. Was he an informant?

Mr. PALMER. Yes, he was, and I would listen to some stories that he told of his activities. However, I never told him any stories of my activities.

Mr. HUGHES. Counsel?

Mr. PALMER. And Mr. Haas, if I may finish, Mr. Haas and I became somewhat closer in 1985 because Mr. Haas, along with all the other American pilots with TACA Airlines, were terminated. He took a job in Miami working for another aircraft firm there, and because his proximity was so close, we became friendly again.

He was very interested in what happened to me in Colombia. I never described to Mr. Haas what the real reason was that I was in Colombia, although I am sure he sensed it.

Mr. GREGORY. Did he introduce you at some point to DEA agents in Texas?

Mr. PALMER. Yes, he did, as a result of the cocaine case that we had done that ended up in McAllen, TX, Mr. Haas brought me out there to introduce me to the agents out there, since I played a role in that case and with its beginnings in Miami.

Mr. GREGORY. What was the purpose of your being introduced to DEA at that time? Was it to discuss further work with him?

Mr. PALMER. It was during the cocaine case that we had, in the beginnings of the cocaine case where there was a source that the FBI was trying to check, to check in another country. At Mr. Haas' suggestion, I made some inquiries into Colombia and into some of the contacts I had made down there about this other contact that was in another country.

The reason I don't name the country is because I believe the case is still open. When I made that contact in Colombia, they were very interested in talking to me again about a problem they were having down there in moving large quantities of marijuana that they had backlogged in their country.

I told them that I wasn't interested in that at that time, but I would get back to them. I reported this back to Mr. Haas, and Mr. Haas brought me out to McAllen, TX after the cocaine case was over with and introduced me to those people.

Mr. GREGORY. So, would it be accurate to conclude that this was an initial contact in what eventually turned out to be the intruder case?

Mr. PALMER. Yes, that is a correct statement.

Mr. GREGORY. Were you debriefed at the time of that initial meeting that you have described?

Mr. PALMER. I don't believe I was debriefed at the initial meeting. The first meeting that I went out there, I was just introduced, and it was on the second time that I was out there that I was debriefed.

Mr. GREGORY. This was June 1986; is that correct?

Mr. PALMER. The second time was in early June or late May. It was before I was indicted in the case in Detroit.

Mr. GREGORY. And your indictment was in late June of '86; is that correct?

Mr. PALMER. That is my recollection.

Mr. GREGORY. June 23? Something in that area?

Mr. PALMER. Something in that area.

Mr. GREGORY. So, in other words, we are talking about a time frame some 2 to 3 weeks before your indictment, you are introduced to DEA; on the second occasion, second meeting, debriefing, did you at that time know that an indictment was likely to be forthcoming?

Mr. PALMER. At that time that I was debriefed initially with DEA?

Mr. GREGORY. Yes.

Mr. PALMER. No, I didn't know that.

Mr. GREGORY. Did you know that you were under scrutiny by a grand jury?

Mr. PALMER. Well, throughout my—no, I didn't know I was under scrutiny by the grand jury, if that is your question. But, if I may expound on it a little bit, there is always a bit of paranoia associated with the smuggling business, and you are always thinking for one reason or another that you may have somebody looking at you. The people that I was associated with in the Vogel group, Vogel always had a story about—well, at that time I think he was talking about people that had problems that were part of this organization—or prior to this, were part of the organization, Mr. Carroll is whom I am referring to.

He was worried about the possible outfall from Mr. Carroll, even though it had been 5 or 6 years since he had last associated with him.

Mr. GREGORY. Were you asked about your—about any previous criminal activity when you were debriefed by DEA?

Mr. PALMER. Yes, I was.

Mr. GREGORY. And briefly, what was your response?

Mr. PALMER. I gave them sort of a broad brush of my smuggling career. I didn't—there were some things that I left out that took place in the very beginning. It was not a complete debriefing for that reason. To be honest with you, I was scared to death, I didn't have an attorney with me. I was there strictly under Mr. Haas' urging that "not to worry about it, just go ahead and tell them everything."

Mr. GREGORY. Did you tell them about the Colombian arrest?

Mr. PALMER. I lied to them about the Colombian arrest. I told them I was arrested in Colombia, and I told them that we were just ferrying an airplane down to Aruba, that we had gotten lost, and were arrested down there. And that was the same story that we had told the Colombians, and the reason I told the DEA that story, at the time there was an extradition treaty and inasmuch as the case was still open in Colombia, I felt that it would be in my best interest, since I didn't know how they were going to react, not to tell the complete truth on that one.

Mr. GREGORY. Did you ever correct that inaccurate report that you gave them—to DEA?

Mr. PALMER. Of course, later. It wasn't too long after that that I corrected it, as a matter of fact.

Mr. GREGORY. What prompted you to do that and when did you do it?

Mr. PALMER. Well, I was prompted to do it because the reports that they were getting were far worse than what the actual truth was. The period of time was maybe a month or so later, a couple of months later. I don't really recall the exact date.

Mr. GREGORY. When did you learn that you had been indicted, or were about to be indicted?

Mr. PALMER. Excuse me?

[Discussion with counsel off the record.]

Mr. HUGHES. Let me just caution counsel. Counsel is present to give the witness legal advice. Counsel is not present to refresh the witness' recollection or to testify. That is the only purpose of counsel. Counsel is here to advise the individual, the witness, of his

rights, legal rights, and I am not sure that counsel is advising him about facts, but that is for Mr. Palmer to recollect if he can. If he has no recollection, he should tell us that.

Mr. KLEIBOEMER. Mr. Chairman, with all due respect, I have practiced law for 26 years, and the communications between me and my client are matters which are privileged, as you know.

Mr. HUGHES. Well, counsel is not telling me that counsel in a courtroom is able to sit there and counsel his client while he is testifying, are you?

Mr. KLEIBOEMER. But of course.

Mr. HUGHES. Well, I have been in a lot of courtrooms, I have never seen that. The rules by which we are operating, that counsel can advise the witness relative to legal advice, not about facts.

Counsel, proceed.

Mr. GREGORY. Do you wish the question, Mr. Palmer?

Mr. PALMER. Could you repeat the question?

Mr. GREGORY. It went to the question of when you learned of your indictment. If you learned of it before it took place, tell us when that was, and if you only learned it afterwards, tell us that.

Mr. PALMER. I was arrested on a Monday morning. I remember that. That is when I learned that I was indicted. I had heard just very—just very, very, just a couple of days prior to my arrest, that I was being looked at in Detroit, and that I was the target of a grand jury investigation. However, I didn't feel that it was going to, that my indictment would be that imminent. It happened in two days. As a matter of fact, the day that I was arrested was the day that I was supposed to leave to Colombia to begin the first day of Intruder, formally to begin Intruder.

Mr. GREGORY. When did you tell DEA about the activities which led to your indictment? About your involvement in those activities?

Mr. PALMER. You are referring to the questions you asked me earlier about my debriefing?

Mr. HUGHES. No, the question is when did you first tell DEA about the facts that gave rise to your indictment in late June of 1986? That is the question. When did you first tell DEA about the facts and circumstances surrounding the incidents for which you were indicted?

Mr. PALMER. Excuse me.

Mr. HUGHES. It is a very clear cut question.

[Discussion off the record.]

Mr. PALMER. Well, I informed DEA I was indicted the day I was arrested.

Mr. HUGHES. No. My question is did you tell DEA—the question is, did you tell DEA when you were debriefed about the facts and circumstances surrounding the incidents for which you were subsequently indicted?

Mr. PALMER. I believe I was indicted on five counts, two of the counts related to the two DC-6 trips in Detroit. Yes, I did relate that to DEA prior to my indictment.

Mr. HUGHES. I see. That was the question. Okay.

Counsel?

Mr. GREGORY. You said that you told them the truth about your Colombia arrest because the—and I am paraphrasing of course,

that the stories coming out were worse, or something to that effect. Is that correct?

Mr. PALMER. Yes, that is correct.

Mr. GREGORY. What are you referring to, what stories?

Mr. PALMER. Well, most of the stories were stories that were—for instance, the stories that are contained in the affidavit—involvement with the 19 guerrillas and all that kind of business.

Mr. GREGORY. Anything other than the affidavit you are referring to?

Mr. PALMER. It seemed like every time I turned around there was some new story or some new slant on what my activities were.

Mr. GREGORY. So would it be correct—I am interested in fixing the time of this. Would it be correct to say then that this occurred after the ultimate arrests in the Intruder case?

Mr. PALMER. No, that is not correct. It was during the case. It was right after my indictment.

Mr. GREGORY. What came out before the arrest that was worse than the facts?

Mr. PALMER. Please forgive me, but I am having a hard time following you. Did I understand you to say what came out prior to the arrests that was worse—

Mr. GREGORY. You said that you told the truth to DEA because the stories that were coming out were worse than the facts.

You then said, if I heard you correctly, that this pre-dated the arrest in the Intruder case, and my question is: what stories came out before the arrests in the Intruder case about your activities in Colombia that were worse than the true facts?

Mr. PALMER. There were several other people that were arrested in the—in the Detroit indictment in which I was indicted. And as sometimes happens—

Mr. GREGORY. Is this relevant? Is this responsive to the question?

Mr. PALMER. Yes, I am going to respond to the question.

Mr. GREGORY. All right, sir.

Mr. PALMER. As sometimes happens, people that are—people that go in and plead out occasionally, sometimes they exaggerate a bit what their involvements and exaggerate the involvement of other people that have not pleaded out yet. That is what I am referring to. People that plead out in the Detroit case were blaming the whole venture down—even the Kingpin, Vogel, was blaming the whole trip on me and in reality it was he that promoted it and insisted that I go, and had been pushing it for six months prior to it going. That is what I am referring to.

Mr. GREGORY. I take it when you say Detroit case, here you are referring to a Detroit case other than the Detroit case of Intruder, correct?

Mr. PALMER. I am referring to the Detroit case in which I was indicted. That is what your question was.

Mr. GREGORY. All right, sir.

Following this debriefing by DEA, did you travel on behalf of DEA to South or Central America?

Mr. PALMER. After my debriefing by DEA, I was subsequently arrested. I was arrested before I could make my trip to Colombia. I was arrested on the morning before I could leave and I spent the

better part of a week and a half, maybe two weeks, in the Metropolitan Correction Center.

After I bonded out, I continued on with what I had started prior to my arrest.

Mr. GREGORY. The question was, did that lead to trips to South or Central America?

Mr. PALMER. It led to a trip to Colombia.

Mr. GREGORY. Describe that trip for the subcommittee, please.

Mr. PALMER. During this period of time I had maintained—I had an appointment to go visit Mr. Morales in Santa Marta, Colombia and he had set up meetings with many of the Colombian traffickers down there who had control over this massive amount of marijuana that they wanted to move to the United States. After I got out of jail—let me back up a minute. I, of course, didn't tell them that I had been arrested in the United States, but after I had gotten out of jail, I went down and continued the appointment that had been set 2 weeks prior or a month prior. I listened to all of the stories that they had to tell and the different proffers that they had to offer and of the couple of kingpins that were there, that were pushing the harvest. I traveled with them to Panama where we met some of their connections in the United States.

Mr. GREGORY. You have described in a comprehensive way that trip. But let me ask you then some specific questions relating to that. Before making this trip to Colombia and Panama, did you identify for DEA a specific target or targets that might be the focus of the investigation and other activities? Other investigative activities? Did you identify potential targets?

Mr. PALMER. Well, the bridge that we walked across was Mr. Morales. Of course he didn't tell me all of the names of everyone over the telephone.

Mr. GREGORY. And that is Oswaldo Morales?

Mr. PALMER. Yes.

Mr. GREGORY. And who is he in the drug trafficking business?

Mr. PALMER. He is sort of a small timer that I met on some of my very first trips to Colombia. He never got above the little small airplane operation, but he knew all of the big time people down there and he was one of the contact points that I had made because I would always see him whenever I was down there to pick up a load.

Mr. GREGORY. And he is Colombian, is that correct?

Mr. PALMER. Yes, he is.

Mr. GREGORY. So you identified Oswaldo Morales as a potential target, is that correct?

Mr. PALMER. That is correct, and I don't recall at the present whether Oswaldo had told me of the names of the other people involved down there or not. He may have. I don't recall whether I identified them to DEA at that time or not, because it all started happening so fast after my trip down there that it is just something I haven't thought about.

Mr. GREGORY. Did you identify anyone else at the time of your debriefing?

Mr. PALMER. At the time of my debriefing?

Mr. GREGORY. Yes.

Mr. PALMER. With DEA in McAllen, you are referring to that, prior to my indictment?

Mr. GREGORY. Yes.

Mr. PALMER. I don't recall.

Mr. GREGORY. How about after the indictment and before, because there was a period of time of some 1 month between the time of our indictment and your trip down there, isn't that correct? Did you identify anyone in that time period?

Mr. PALMER. I really can't recall. That is the question I just tried to respond to and I can't recall whether I identified all of the people or some of the people prior to going down to Colombia or after I came back.

Mr. GREGORY. The understanding between you and DEA, where were you at that point? What were you—what were you planning to do on that trip? What were you planning to accomplish?

Mr. PALMER. I was going to meet the people that had the 500,000 pounds of marijuana that they wanted to transport into the United States.

Mr. GREGORY. Were these people represented by Morales?

Mr. PALMER. Morales is a fly speck compared to the people that he introduced me to. These are people that I never knew even existed.

Mr. GREGORY. How did you learn—I am sorry, go ahead.

Mr. PALMER. Morales was down on his luck. He is a small timer. He looked like, to him, he had this contact in the United States—that was me. He had seen me in jail when I was in Colombia. I told him that I was getting out of the business. It was through that phone call that I made to him to check on the veracity of the people in the cocaine deal that we became back in contact with each other and it was also then that Morales told me about all of these proffers that were going on down there, and what he identified was that they had over 500,000 pounds of marijuana that they wanted to proffer to the United States and wanted to know if I could help them.

Mr. GREGORY. So Morales told you that there were people in Colombia interested in exporting those quantities to the United States. You told this to DEA, and in furtherance of that, you made this trip. Is that accurate?

Mr. PALMER. That is correct.

Mr. GREGORY. And on that trip you met other traffickers beyond Morales; is that correct?

Mr. PALMER. Yes, I did.

Mr. GREGORY. What was the next step in the operation?

Mr. PALMER. The next step was trying to identify these people. I asked them if they wanted us to transport it and what did they have in the way of contacts in the United States that would be able to market it for them once it got up there. They bragged about extensive contacts that they had in the United States and I suggested that we meet their contacts, and they set up a meeting in Panama, on that first trip.

I went to Panama with Morales and some of his associates, the people I had met, and we met some people that came in from the United States. They were part of, I believe it was Dangond marketing network.

Mr. GREGORY. So did you meet people that eventually were defendants in the case?

Mr. PALMER. The Dangond case?

Mr. GREGORY. Yes.

Mr. PALMER. Yes.

Mr. GREGORY. Which defendants in the case did you meet at that time?

Mr. PALMER. Marta and Alek Cerna.

Mr. GREGORY. Anyone else?

Mr. PALMER. On that particular trip, no. There were other people indicted that were down on that trip, but those were the two defendants that were in the United States.

Mr. GREGORY. Now, you have been told by Morales that there were persons that were interested in importing 500,000 pounds of marijuana to the United States. You went down to check it out.

Did you find that to be true? Were there any such persons?

Mr. PALMER. Ultimately, yes, it was true, of course, it was true. As a matter of fact, at one point it was over 1 million pounds they were talking about. But it was exaggerated, obviously.

Mr. GREGORY. Were they at the time you first met them, the Cernas, for example, were they interested in such a deal?

Mr. PALMER. They were very interested.

Mr. GREGORY. Were they prepared to go ahead with it at that point?

Mr. PALMER. They said they were.

Mr. GREGORY. In the course of these meetings——

Mr. PALMER. Excuse me, may I interrupt? I just want to broaden that answer just a little bit.

Cerna was Dangond's marketing people in the states and through Cerna they had a wide network of different people that they used for marketing. Cerna was not satisfied with being in the marketing business, though. He wanted to have a role as both the procurer in South America, as a copartner with Dangond and with marketing in the United States.

And they were very interested in the Dangond deal, but it wasn't like they were just exclusively going to market it. They took enough of an interest where they decided they were going to get involved in the procurement in Colombia.

Mr. GREGORY. Were they also interested at that time in bringing in smaller amounts by plane? Was there discussion of that?

Mr. PALMER. As part of my introduction to Dangond, he explained to me that he had a DC-6 that crashed in the Bahamas the year before, killing everybody on board, and that Cerna had a Navajo full of cocaine that crashed in the Bahamas killing Cerna's son, 21-year-old son, and the pilot that was with him.

They were having a lot of hard luck with airplanes and they were interested in the boat trip. He knew that I was a pilot, was my primary interest, and I said the only reason I was down there was because Mr. Morales brought me down there to meet the people that wanted to do the big deal.

I wasn't interested in doing any small deals. I was there to provide transportation for this 500,000 pounds of marijuana that they were talking about. But it is part of the protocol down there. To

introduce me for themselves, they wanted to take me around and show me their connections down in Colombia.

So we traveled around and looked at different air strips that they were using for both cocaine and for marijuana.

Mr. GREGORY. My question was, were they interested in bringing in smaller amounts by plane?

Mr. PALMER. Well, that is what I am trying to answer your question.

Mr. GREGORY. Is the answer, yes?

Mr. PALMER. My answer is coming shortly here.

Mr. GREGORY. So were—go ahead.

Mr. PALMER. I'm sorry.

Mr. HUGHES. Would counsel try to find a spot in the next 5 minutes? We have a vote in progress and we can break for lunch so we can return at 1.

Mr. GREGORY. Certainly.

Mr. PALMER. At any rate, he asked me when we were out looking at the air strips if I would be interested in flying smaller loads into the states. I told him, no, that I was interested in flying or interested in doing the boat trip. That is the one that Oswaldo discussed with me, and that is why I was down there.

They pressed me about it, and I told them that I really wasn't interested in doing anything smaller than the one they had originally proffered. They told me that, well, I supposedly knew all about the DC-6 operation, and they asked me if I could do the DC-6 for them. I said, sure, I could, but that is not the point.

I am here to discuss the boat trip that you want to do.

Mr. HUGHES. We are going to recess. We have a vote in progress. You have been at it for about an hour and a half. We are going to recess until 1 o'clock. That gives us about 40 minutes. I just want to caution the photographers and the electronic media that we don't want any photographs taken of this witness, and I would ask the media to please comply with that.

We stand in recess until 1 o'clock.

[Whereupon, at 12:20 p.m., a recess was taken, to reconvene at 1 p.m. this same day.]

AFTERNOON SESSION

Mr. HUGHES. The Subcommittee on Crime will come to order. Mr. Gregory.

Mr. GREGORY. When we broke, Mr. Palmer, we were talking about the preparations that you took part in for what became known as the Operation Intruder. We were discussing whether or not there were—there was consideration in addition to the large 500,000-pound shipment you described, consideration also given to importing smaller quantities by airplane. I believe you were describing that at the time.

You said that that was not your interest, but my specific question was, were the individuals, the traffickers with whom you were dealing interested in any such shipment?

Mr. PALMER. I tried to respond to your question and I realize that my answer was somewhat lengthy. In some ways, some of

your questions beg for a little bit more of an explanation than just a simple yes or no answer.

I am trying to be concise but accurate. You know, there were in addition to just the marijuana aspects of the people that I met, there were also two or three people that were what you would call members of the cocaine cartel that came through to talk also.

One of them was a guy named Martinez, and he was also very interested in doing a small airplane trip, but what he had in mind was 600 kilos of cocaine. When I returned from my trip to Colombia, and the trip to Panama, I reported all this back to the DEA, and subsequently a week or so later while I am awaiting what it is the DEA decided they wanted to do in the way of targeting people in the operation, I found out that Mr. Martinez had been assassinated that week in his office in Medellin.

There were probably 12 or 13 different people that I met through Mr. Morales when I made the trip down there. However, we couldn't work with all of them and fulfill all of their needs. So it was up to the DEA to decide whom it was that we wanted to target in the investigation.

The people that ended up being targeted were the people that came right out to the forefront as a result of the Panama visit after my visit to Colombia.

Mr. GREGORY. On or about September 17, 1986, did you fly a DC-6 to an airport, air strip in the vicinity of Santa Marta, Colombia? Or, did you fly on a flight, any such flight?

Mr. PALMER. The date, again, was September—

Mr. GREGORY. September 17, on or about, 1986.

Mr. PALMER. In September, if what you are referring to is the trip that ended up going to Mexico, yes, that flight originated in Santa Marta, in the vicinity of Santa Marta, Colombia.

Mr. GREGORY. Originated in Miami.

Mr. PALMER. It started in Miami, but your question was referred to Santa Marta, yes, that is where we left from.

Mr. GREGORY. What was the purpose of that flight?

Mr. PALMER. The purpose of the flight was to make an importation of what they said was going to be 20,000 pounds of marijuana into Texas.

Mr. GREGORY. Was that flight approved by DEA?

Mr. PALMER. My knowledge at the time was that we had the green light. Mr. Haas, who I was working with, was handling coordination with the DEA and McAllen was handling coordination with the Colombian traffickers who we had been involved in a very prolonged and protracted negotiation over the barge trip and when it appeared to us that we were not going to be able to do the barge trip, we decided we would suffice with the DC-6 trip into Texas where the operation would be terminated.

Mr. GREGORY. Did you have any direct contact with DEA agents yourself working this case?

Mr. PALMER. From time to time, yes, I did.

Mr. GREGORY. Looking at the time of the flight, as you can best recall, when was the most recent contact you had in terms of approximate time to that flight, the flight of the 17th, on or about, did you talk to anyone in DEA within a few days before that flight?

Mr. PALMER. You know, I can't really recall. I haven't been asked this question before and we are turning back the clock, I guess, in excess of 2 years. I had several conversations with DEA relative to this, to the Intruder Project. Some of the things that we were coordinating was, for instance, when the Colombians insisted on wanting to do a DC-6, and they wanted to go—they wanted to go in Mexico and we wanted to go into the United States.

They didn't want to go in the United States because they didn't trust us. They hadn't worked with us before, this particular group hadn't. Morales was, of course, very strong and vouching for our voracity and capability of doing things, and his position as middle man, but, however, we had no experience with working with Mr. Dangond or Mr. and Mrs. Cerna or Mr. Adams or any of the people that we met in this operation.

Mr. GREGORY. Was the possibility of a flight—

Mr. PALMER. I am trying to answer that question.

Mr. GREGORY. OK.

Mr. PALMER. So when you say the possibility of a flight, was the possibility of a flight discussed, of course, it was. But it was discussed in the context of stalling the Colombians to find out more about them. We did accomplish that in this manner. They said they wanted to go to Mexico. We said, fine, show us where you want to go in Mexico. We reported this back to DEA. They said stall them, find out a little bit more about what their organization is in Mexico.

We are very interested in the Mexican organization in lieu of—I imagine it is in lieu of all this about Mr. Camarena's death, for instance, and the allegation surrounding it. What they directed us to do was to go ahead and let them show us around down in Mexico, meet the people they were working with down there.

That is what we did. We went down to—Haas and I flew into Mexico with Cerna and Adams and we met people in the Mexican federal police, the equivalent of local sheriffs in different towns surrounding Mexico, outside of Mexico City in San Miguel de Alende.

We looked at several air strips in that area under the auspices that, yes, we are—we may consider flying into Mexico but you have to show us something that we can use. We were lying to them. We had no intention to flying to Mexico. We wanted to see and identify the strips they were using, what they were flying into there, what the people, who the people were that they were—that were involved in the trafficking in Mexico and what the routes were they were using to come back into the United States and that is what we did.

Mr. GREGORY. You said you had no intention of flying into Mexico. Was that because DEA had said we don't want you to fly into Mexico.

Mr. PALMER. My understanding at the time was DEA could not authorize a flight into Mexico, and in Mexico. They couldn't protect it. They couldn't authorize it. We turned down all the strips that we saw down in Mexico with the intention—down deep in the heart of Mexico, with the intention of moving them up so close to the border with the United States that they would see the logic of

landing right across the border in Texas, where the operation could be controlled.

Mr. GREGORY. Did you ever, yourself, hear DEA either approve or disapprove a suggestion of flying into Mexico?

Mr. PALMER. I recall the group supervisor involved in Intruder, Mr. Wagner. He told me that he couldn't authorize a landing in Mexico.

As a matter of fact, they can't—there are certain guidelines they have to follow when it comes to authorizing a landing in Colombia. However, if they comply with the guidelines to the letter of the law back then, they can guarantee the death of whoever it is flying the airplane in.

Mr. GREGORY. So the group supervisor told you that, you heard him say that he can't approve a flight into Mexico?

Mr. PALMER. That is correct.

Mr. GREGORY. How long before Haas told you that they said it was OK did that conversation take place?

Mr. PALMER. I don't recall. He said it prior to Haas saying it is OK to go ahead and leave on the trip.

Mr. GREGORY. When Haas told you that they said it was OK, did you make any inquiry about the change in position by DEA.

Mr. PALMER. Mr. Gregory, you have to recognize the turmoil that was taking place at the time. We had the Colombians that already paid us \$150,000 to do this trip. At that point we were locked into doing something for them, making some kind of a show for them. What our plan was, we even invited a little facade to try to coax them into letting us fly into the United States by saying, look, there is a border operation going on right now.

If we fly the loot into Mexico, you are not going to get it across because it will get nabbed at the border. We used to try to convince them. When they refused that, we decided that the way to go would be to over-fly, where the——

Mr. GREGORY. I am not to that point yet. I will try once more for an answer to my question. Did you raise the question with Haas about why there was a change in DEA policy when he told you they approved of you landing in Mexico.

Did you ask him, Joe, what happened?

Mr. PALMER. You are putting words in my mouth now. Haas never said we can land in Mexico. He never said we had a green light to land in Mexico. Neither did I.

Mr. GREGORY. What did he say was approved at the time you were departing, what was it that he told you that DEA had approved?

Mr. PALMER. To make the flight.

Mr. GREGORY. And what were the—what was the strategy? How was the flight to be carried out?

Mr. PALMER. We would fly down to Colombia and pick up the load, over-fly the site that the traffickers were at in Mexico, or establish—we would use a facade and fake having some kind of problem with the plane, tell them about it as we progressed along our route of flight, about a 12-hour flight from Colombia, and direct them to the site that we would select as an emergency landing site inside the State of Texas which would be the ranch that we had

told them about, and DEA would take control of the load when they came across to pick it up, they would all be taken down.

Mr. GREGORY. So at the time you left, the plan was to not land in Mexico; is that correct?

Mr. PALMER. That is correct.

Mr. GREGORY. Was there a landing site designated?

Mr. PALMER. Do you mean a landing site in——

Mr. GREGORY. In Mexico.

Mr. PALMER. We had a landing site in Colombia we were going to——

Mr. GREGORY. On the return flight, was there a landing site designated for the return flight?

Mr. PALMER. We were going to bring the load back into McAllen, TX.

Mr. GREGORY. Right.

Mr. PALMER. To what airfield?

Mr. GREGORY. Excuse me just a moment.

[Discussion off the record.]

Mr. KLEIBOEMER. Mr. Chairman, I am under the impression that this particular airfield is still being utilized from time to time by the DEA. We will be happy to respond to the question as asked, but I wonder whether it really advances any particular purpose of your hearing.

Mr. HUGHES. We are unaware of any concerns expressed by DEA relative to an airstrip in McAllen, TX. This is the first time that I have been made aware. I certainly wouldn't want to compromise any ongoing criminal investigations where they are using a strip in McAllen, TX. Why don't we pass that and I will try to find out from DEA in the interim whether we have a problem. Pass on, counsel.

Mr. GREGORY. Without specifying the particular airfield, there was a designated airfield at McAllen, TX, that you were to land at on return?

Mr. PALMER. There were a couple of airfields that we could have, three that we could have used in McAllen, TX.

Mr. GREGORY. But the ones designated were all in or near McAllen, TX?

Mr. PALMER. In the area, yes.

Mr. GREGORY. How was it to be determined which of the three, or whatever number it was, would in fact be the landing site?

Mr. PALMER. Haas was handling that over the radio.

Mr. GREGORY. When did you learn that there were three such alternate sites?

Mr. PALMER. Haas informed me of that.

Mr. GREGORY. I didn't say how. I said when. Before you left on the flight?

Mr. PALMER. I believe it was before we left.

Mr. GREGORY. OK.

Mr. PALMER. I expressed to Haas—we talked around this enough and I expressed to Haas my concern about, number one, what if we get to Colombia and they decide they are going to put some hostiles on board with us, which was a possibility. It happens from time to time. It has happened to me. What are we going to do then?

I don't know if you met Mr. Haas or not, but he is a pretty flamboyant fellow. And he said that we would deal with it. I said, what if we can't deal with it and we are forced to land, and he said, we will go land where they tell us to land and that will be that.

That was not the case in this particular circumstance. I trusted Mr. Haas, I worked with him on this, on the cocaine deal, and it all worked fine. I didn't have any reason to doubt his veracity or his word. He worked with me and trusted me, as far as my conversations and coordination with the Colombians on this. We were just two people and there was a massive amount of coordination to be taken care of.

I am trying to respond to your question.

Mr. GREGORY. Under this plan, when were you to learn which of the three designated sites you were to land at?

Mr. PALMER. Haas was going to handle that over the radio telephone that we had on board the aircraft, coordinating with the group supervisor in McAllen.

Mr. GREGORY. On the return flight?

Mr. PALMER. He said that we had the—as a matter of fact, I had not seen—the only airport I had seen had been the McAllen airport. The other two strips were strips that Haas had seen.

Mr. HUGHES. Mr. Palmer, the question was, "On the return flight?" That was the question.

Mr. PALMER. Would you repeat the question?

Mr. GREGORY. My question was, you said that you were to learn which of the three sites was the landing site on the radio, and my question was, was that to be communicated while you were in the air, on the return flight.

Mr. PALMER. My assumption was we were going to bring it right back into McAllen.

Mr. GREGORY. But you have three sites, and I am trying to determine how you were to learn which one you were to land at.

Mr. PALMER. I'm sorry, Mr. Gregory, but you have to understand something. We had six people on board the airplane. I was not the pilot of the airplane, OK? I was on the airplane serving in any way that I could. Sure, I held or flew the controls every once in a while and it was a long day. It was a 22-, 23-hour day.

In the context of that, it was one of the things I really wasn't concerned about because I knew once we got into the United States there would be no problem with it.

Mr. HUGHES. Mr. Palmer, what Mr. Gregory is trying to find out is when was the decision going to be made as to which of the three alternate sites you were going to put the plane down at, if you know.

Mr. PALMER. I feel very silly responding to you in this way, saying I don't know, but the fact of the matter is I don't recall when the exact time was that this would be—it would be done.

Mr. HUGHES. It hadn't been decided when you took off for Colombia? You had not decided, had you?

Mr. PALMER. I had not decided anything. It was Haas' decision to make.

Mr. HUGHES. Yes. But Haas wasn't on board the plane, was he?

Mr. PALMER. Yes, he was.

Mr. HUGHES. He was on board the plane and he was going to make that decision, but I presume you were privy to the decisions being made with Haas?

Mr. PALMER. The first thing that we had to do was to get down to Colombia, and Haas was on the telephone with McAllen when we were en route down there. I don't recall what it was. I don't recall asking him where we were going to go back to.

I knew what the mission entailed, but—it was not the most hazardous part of the trip. That was the——

Mr. HUGHES. Is it fair to say in your trip to Colombia to pick up the load, you had not decided at that point or it had not been decided where you were going to put down when you returned with the load?

Mr. PALMER. No, it is not fair to say that.

Mr. HUGHES. You didn't know?

Mr. PALMER. It is not fair to say or make the statement you just made. I am trying to explain the context with which this took place. I know that it sounds——

Mr. HUGHES. Was a decision made when you took off as to where you were going to put it down when you returned to the United States? It is your testimony——

Mr. PALMER. McAllen, TX.

Mr. HUGHES. To bring the load back to the United States——

Mr. PALMER. McAllen, TX, was my recollection of where we were going back to. It was Haas' responsibility to coordinate that. We would land the airplane.

Mr. HUGHES. Why would there be alternative sites if the selection had already been made?

Mr. PALMER. There should always be alternative sites. The air may be compromised for some reason. There may be other traffickers in the area.

Mr. HUGHES. What were those alternative sites?

Mr. PALMER. The first was—I don't recall the name of the strip where Haas brought the last trip that he had done on behalf of the McAllen DEA office. It was a strip west of McAllen. The second one was Senator Lloyd Bentsen's ranch.

Mr. HUGHES. Where was the third site?

Mr. PALMER. McAllen, TX.

Mr. HUGHES. Counsel.

Mr. GREGORY. Was there any mention of Del Rio as a possible landing site?

Mr. PALMER. Yes, there was.

Mr. GREGORY. Prior to the departure?

Mr. PALMER. I don't recall.

Mr. GREGORY. How many people were on the flight from Miami to Colombia?

Mr. PALMER. I believe there were five.

Mr. GREGORY. Pardon me?

Mr. PALMER. I believe five.

Mr. GREGORY. Five in addition to yourself or including yourself?

Mr. PALMER. I think it was including myself. Let me write it down.

Mr. GREGORY. There was yourself and Haas, I think.

Mr. PALMER. Yes.

Mr. GREGORY. And there were, as I understand, two pilots, two Nicaraguans; is that correct?

Mr. PALMER. Well—

Mr. GREGORY. Do you recall two?

Mr. PALMER. I believe they were U.S. citizens. There was Art, myself, Haas, Steve, Irving and Donald. That is six.

Mr. GREGORY. OK. Now, Art is Art Loomis; is that correct?

Mr. PALMER. Excuse me a moment. Forgive me, Mr. Gregory, but, you know, I realize that I have been in the public eye, and if there is a duty to have my name out there as part of this investigation that you are conducting—however, there are other people that worked in this operation in various capacities. They were people that did not have any prior criminal background, any prior arrest. They were doing the best that they could to assist the government.

I don't think it is fair to use their names in the public forum. These people are out there and they have regular jobs, maybe not like you; however, they do have regular jobs and they are out in the public light and it is possible for the retribution that the cartel is known for to be taken at any time if they are publicly identified.

Mr. GREGORY. Does the person you refer to as Art meet that description of persons with no criminal background, no previous accusations, no involvement, to your knowledge, in any drug smuggling activities?

Mr. PALMER. That is not what I said. I said without a criminal record, without a prior arrest, and lumped into that, there were people on board that aircraft that may or may not have been arrested at one time or another, but they certainly aren't subject to the scrutiny that I have been subjected to, nor are they subject to the threat that I have been subjected to.

I would just please beg your indulgence to not mention their names in the public forum. You know what their names are. There is no need to put them out there in the public.

Mr. GREGORY. Picking up on something we discussed a minute ago, you mentioned the three alternative sites and identified them. Do you know who made the selection of those sites?

Mr. PALMER. Do I know who made the selection? I can make an assumption as to who made the selection. I can't say—

Mr. GREGORY. Tell us, to the best of your knowledge, what that process was.

Mr. PALMER. It would be Mr. Haas and Mr. Wagner.

Mr. GREGORY. Do you have any specific information about how that came about? Why do you feel it was Haas and Wagner?

Mr. PALMER. Haas was handling the coordination with McAllen. Wagner was the group supervisor. That is who he would be talking to.

Mr. GREGORY. Between the two, do you know who made the selection?

Mr. PALMER. I would assume it would be Wagner who would make the selection, with asking Haas if the airport met the criteria and capabilities of the airplane. It is very common that many DEA agents don't have the technical background in aviation to be able to make those types of choices.

Mr. GREGORY. Who selected the crew, beyond yourself?

Mr. PALMER. Haas and I did.

Mr. GREGORY. Did both of you participate or did one or the other of you do it?

Mr. PALMER. We both did.

Mr. GREGORY. Did you know all the crew members?

Mr. PALMER. Yes, I did.

Mr. GREGORY. Did Haas know them all?

Mr. PALMER. Yes, he did.

Mr. GREGORY. Who made the contacts to them?

Mr. PALMER. These people were—some of the people were working for the company that I was working for at that time. They were—it is a very small community down there, the aviation community in Miami and at the Miami Airport. We all knew each other.

Mr. GREGORY. Did any of the crew members express to you an interest in getting involved in other activities that might involve the U.S. Government? I am leading up specifically to the Nicaraguan effort.

Was there any discussion with any of the crew in which they reflected an interest in getting involved in helping that effort?

Mr. PALMER. You would help me a great deal if you would frame your question in what time frame.

Mr. GREGORY. The time frame I am asking now about is the time frame in which they were being recruited for this flight, September 1986 flight.

Mr. PALMER. Let me try to phrase your question and to see if I understand it.

Are you saying was anything dangled out in front of any of these people, saying, "You will have other work if you do this work" type of thing? Is that your question, or is it something else? I don't understand.

Mr. GREGORY. I did not ask about anything being dangled. I asked if any of the crew members communicated to you, or which you became aware, an interest in being involved in the Nicaraguan Contra effort.

Mr. PALMER. At that time or prior to it?

Mr. GREGORY. At that time.

Mr. PALMER. Afterwards.

Mr. GREGORY. At that time.

Mr. PALMER. At that particular time, the time they were being recruited, some of them already were.

Mr. GREGORY. In what capacity?

Mr. PALMER. One of the people that was on board happened to also be a crew member on one of the flights that we had made to drop supplies over in Nicaragua.

Mr. MAVROULES. There is a vote in progress and this is a good place for us to recess.

We stand in recess for 10 minutes.

[Recess.]

Mr. HUGHES. The subcommittee will come to order.

Mr. Palmer, before we broke, we were talking about the ultimate destination, where the plane was to put down when you left Colombia and came back in the country. I understand your testimony was that it was always the intent of those on board that plane to

put it down in the United States, not Mexico. Is that correct? Was that your testimony?

Mr. PALMER. Would you read my testimony again, please?

Mr. HUGHES. Well, do you remember?

Mr. PALMER. You are paraphrasing a bit, yes. But yes, that is the answer to the question, yes.

Mr. HUGHES. And your testimony was that there were three alternative landing strips?

Mr. PALMER. That is correct.

Mr. HUGHES. Who furnished those, the Drug Enforcement Administration?

Mr. PALMER. My assumption is that the three strips were strips that the DEA has used in the past. You are asking me to answer a question I don't know.

Mr. HUGHES. Well, you didn't?

Mr. PALMER. No.

Mr. HUGHES. Haas would not have, he wouldn't have chosen places in the United States in which to land, would he?

Mr. PALMER. If given a choice, he may suggest one that he may like better than another.

Mr. HUGHES. But the DEA would make the ultimate decision would they not?

Mr. PALMER. Yes.

Mr. HUGHES. When you suggested that one of the sites was Lloyd Bentsen's ranch, I assume that that was one of the spots selected by the DEA?

Mr. PALMER. Are you asking me a question?

Mr. HUGHES. Yes. Because Lloyd Bentsen does cooperate with the law enforcement agencies of the country. He has a strip on his ranch, I presume?

Mr. PALMER. That is correct.

Mr. HUGHES. Counsel.

Mr. GREGORY. I think you confirmed to an earlier question, that there was some discussion of possibly landing at Del Rio. Was that true?

Mr. PALMER. Yes, it is.

Mr. GREGORY. When did that arise? That possibility?

Mr. PALMER. On our way back from Colombia, when it became apparent to us that we may not be able to make it back to McAllen, Haas was on the radio, I assume, talking to Mr. Wagner back in McAllen, asking for another site closer to where the traffic—where we thought the traffickers were.

You see, there was another complication. We were not able to establish contact with the traffickers once we had left Colombia. They are located in Mexico. It further complicated our game plan.

I should also point out, if you will let me digress for a moment, a question came up as to where the location of three strips were in the McAllen area. They are all within about a ten mile radius of each other. As a practical matter, it really isn't necessary to say, it had to be this one or it had to be that one. You have to stay flexible in the event of some eventuality that you can't land at one, you will be able to use another, and leave the option open.

Mr. GREGORY. So Haas was on the radio talking to DEA on the flight back, is that correct?

Mr. PALMER. Yes, it is.

Mr. GREGORY. Was he in more or less constant communication on the flight?

Mr. PALMER. He made several calls. It is difficult to get through. What you are using is the Marine operator. You have to get in touch with them on HF, long-range communications. It is difficult to get punched through on that and when you get through, the operator has to patch you into whatever the phone number is that you want to call and sometimes you can spend a half hour trying to contact the Marine operator, let alone completing your call.

So he was on the radio quite a bit. However, his success in getting through may have been as few as two or three times.

Mr. GREGORY. When you were interviewed by the subcommittee staff earlier, you made the following statement in discussing the same subject that we are discussing now.

Mr. KLEIBOEMER. Could I have a page number?

Mr. GREGORY. Yes, page 128. Actually it begins on the bottom of page 27. At which point you said, quote:

We headed up the western—well up toward Merida, Mexico, a point where you could go—you could really go anywhere—to Florida, to anywhere in the United States or Mexico.

Haas was on the HF. You know what an HF is, right?

Mr. Dahl says:

Yes.

You continued:

Talking about the Marine operator to McAllen and telling them, you know, what our situation was, that we were—we didn't think we had enough gas to make it, and that they set up Del Rio Air Force Base for us, which is a little further west from McAllen, and the choice we were going to make was to try the original thing over the strip to where they were at, telling them a problem, we can't land, and head over to Del Rio, which would be our alternate.

Let me address some questions to you concerning the testimony. Do you remember making those statements and are they accurate?

Mr. PALMER. They are reasonably accurate. I have some corrections, but I don't think they change the meaning too much.

Mr. GREGORY. Perhaps they will come out in the course of my specific questions. If not, you will have an opportunity to correct them.

When you say on page 128, line 3059, "we didn't think we had enough gas to make it."

To make it where?

Mr. PALMER. To make it over the strip in Mexico and back to McAllen.

Mr. GREGORY. What happened to McAllen as a landing site? Had it somehow been lost as a possibility?

Mr. PALMER. I don't understand. Are you trying to say that we were ignoring McAllen tap?

Mr. GREGORY. You testified in some detail about these three alternative sites all in the vicinity of McAllen. My question is, at the time these events took place, Haas is on the HF, talking to the Marine operator. Is McAllen still a possibility as a landing site?

Mr. PALMER. We were monitoring the situation very closely at that time because we had left Colombia with 600 gallons less fuel

than what we had planned on having on board, so we were going to watch it very carefully to see whether or not we were going to have enough gas to make it over the landing strip and back to McAllen, but you see, the operation was further complicated by the fact that the Colombians that were located in Mexico, did not have their HF radio working. So all of our calls to them were never answered.

So at the present we are very concerned that we would, if we flew from that point, say directly to McAllen and landed, that they would think they were dealing with the law because we didn't make an attempt to try to get over there to them. It just wouldn't have made sense to them that we wouldn't try to land—we never worked with these people before. They didn't know who we were, and without us making a real viable attempt to demonstrate to them that we were going to try to fulfill their wishes, it would make it that much more difficult for the DEA to tempt them back over the border. They had their guard up.

Mr. GREGORY. I would like to help the subcommittee understand. You told us that there were three possible landing sites, all in the vicinity of McAllen, and now we are looking at testimony—what you said—"we didn't have enough gas to make it." Why not land at McAllen?

Let me direct your attention to the map.

Mr. PALMER. I am aware of where McAllen is. That is the question that I tried to answer for you. The reason why we didn't fly directly back to McAllen, the reason why Mr. Haas was on the radio soliciting a safe airport within the United States closer to the proposed landing site in Mexico where the traffickers were located, is because our original game plan was to overfly the site where they were located, tell them that we have a problem, that we can't land there, that we will be going into the States to our other strip and for them to look us up there. That is the reason why we didn't go directly to McAllen.

If he had flown into McAllen, it would have been easy, except for one small problem—the traffickers in Colombia and Mexico would have grave doubts as to what we had done, whether we ran off with the load, or they were being tricked. Whether we were the law, any one of those things. It would have been different had we known these people and say worked with them before, where they had some sort of trust in us. They didn't know us from Adam and we didn't know them from Adam.

Mr. GREGORY. Would they have less doubts about the operation if it landed at an Air Force base in Del Rio than if it landed at a private strip somewhere else?

Mr. PALMER. We never would have told them that we landed in Del Rio. We would have overflowed the strip, told them we had a problem, landed in Del Rio to refuel. That was our problem, we didn't have enough gas. We would have reflown over the McAllen with the DEA on board, and then told the traffickers that we flew over to our private strip not too far from McAllen.

Mr. GREGORY. Were there any traffickers on board?

Mr. PALMER. No, there were not.

Mr. GREGORY. Why was it necessary specifically to overfly this site to communicate to those on the ground that there was a problem?

Mr. PALMER. OK. All right. The reason is, I can't really change it other than what I have just previously stated to you. The reason that we were so hard set on overflying that strip was to demonstrate to them that this was not a rip-off. In other words, we overflew the strip, we had this legitimate problem, we can't land, we will go to our alternate—our strip inside the States. They had an alternate for us, too, down there. Of course, that wouldn't be acceptable to us.

The problem was that we were—the problem that we were going to use as a reason not to land was a bad engine. And with a bad engine we can't take off again, and we will have problems with the airplane down there. We would have had problems with the federal police down there, protecting the airplane for however many days it would take to bring a new engine in.

Mr. GREGORY. So you did land in Mexico at approximately the spot designated by the red indicator, is that correct?

Mr. PALMER. That is correct.

Mr. GREGORY. Tell us briefly what transpired upon landing?

Mr. PALMER. Well, it is probably the most harrowing landing that I have ever been involved in. This place can only be characterized as being the black hole of Calcutta, set in a valley with mountains on each side. One of the mountains is very, very close to the strip. Once we landed, they had trucks there, they had a bunch of people running around with weapons, and they off-loaded the marijuana into the trucks.

We asked them where they were going to take it so we could try to identify for the DEA when we got back where the load was. They told us, and we at that time, since we had already landed there, we carried this thing on just like that was the way that the script was supposed to read. We certainly couldn't tell them, look, it is a mistake, guys, we actually wanted to go into the States and get you all busted. We bragged about our veracity about getting in to that teeny strip there and we, of course, had planned it that way all the time, and so on.

They refueled us. It took about 1½ to 2 hours to get fuel on board. Even then, we didn't have enough gas. We were worried about getting all the way back to McAllen, but we used a reduced power setting and flew all the way back to McAllen.

Mr. GREGORY. Were you met by DEA when you landed in McAllen?

Mr. PALMER. Yes, we were. DEA and Customs.

Mr. GREGORY. Who from DEA met you?

Mr. PALMER. Mr. Wagner was there. I believe there was an undercover Customs man there. A contingent of Customs inspectors, and I believe another one of the agents in the office. I don't recall who it was.

Mr. GREGORY. Was there a debriefing by DEA at that time?

Mr. PALMER. You mean right there in Customs?

Mr. GREGORY. That day or, you know, shortly after?

Mr. PALMER. At that point we had been up for about 36 hours. I think everybody went over to the hotel to get some rest, and a little later on in the day, I believe Haas went over and debriefed with the DEA. There were some other—we had some other conver-

sations, but I don't recall the debriefing on that trip, you know, it was like—I don't recall giving it all the information at one time.

For instance, where the load was going to be taken in Mexico and how they were going to bring it across. We were trying to elicit this information from them when we were there on the strip and at the same time doing it in such a manner that it will not unduly alert them to the fact that we are trying to pinpoint what it is that they are going to do from there. The traffickers.

Mr. GREGORY. Now, there was some—1 year's time between this flight and the eventual culmination of Intruder, isn't that correct?

Mr. PALMER. Yes.

Mr. GREGORY. And I take it—I don't want to go into great detail on that or any detail at all—but I take it there was a lot of planning, a lot of logistical arrangements, that had to be made during that time and any unusual delays that might be encountered. Is that basically correct?

Mr. PALMER. Yes.

Mr. GREGORY. When did the barge shipment actually take place? This is the shipment that was originally planned to be 500,000 pounds and was somewhat less than that. When did that take place?

Mr. PALMER. I believe it was in August 1987.

Mr. GREGORY. What ship was used for that shipment?

Mr. PALMER. You want the name of the ship?

Mr. GREGORY. Yes.

Mr. PALMER. Excuse me just a moment.

[Discussion with counsel off the record.]

Mr. PALMER. The Madrid.

Mr. GREGORY. Who owned the Madrid?

Mr. PALMER. Haas and I did.

Mr. GREGORY. You purchased it jointly?

Mr. PALMER. Well, Haas actually provided the funds to purchase the ship. I provided some of the funds for some of the outfitting that we had to do.

Mr. GREGORY. What was the purchase price, if you know?

Mr. PALMER. \$275,000.

Mr. GREGORY. And Haas furnished those funds?

Mr. PALMER. Haas mortgaged his house and put his insurance policies up, his life insurance policies, as collateral for the funds to buy that ship.

Mr. GREGORY. And you provided some funds for refurbishing, re-fitting, something like that?

Mr. PALMER. Yes.

Mr. GREGORY. How much money did you provide for that part of the operation?

Mr. PALMER. I don't recall at this point. It was like an ongoing type thing. I could give you an estimate. Maybe \$50,000 or \$60,000.

Mr. GREGORY. Did you have an understanding with the traffickers how much you were to be paid for the September 1986 20,000 pound load into Mexico?

Mr. PALMER. Once the trip had gone into Mexico, yes, we did. As a matter of fact, I told him that we wanted \$65 a pound. They claim that there was 1,000 pounds that we had brought in. However, there is a problem. The problem was this: it was that they

claimed that they never were able to sell a pound of it. This is Mr. Cerna. As a matter of fact, he said that in the presence of several DEA agents who were operating undercover.

We, of course, demanded our payment anyway, as this would be, would be the normal reaction in a drug trafficking transaction. The truth of the matter is, if a load is lost for any reason, nobody is going to get paid.

Mr. GREGORY. So you had an understanding that you were to be paid \$65 a pound?

Mr. PALMER. That is correct.

Mr. GREGORY. And were you paid for those transportation services?

Mr. PALMER. I will answer your question in this way: The DC-6 operation into Mexico, as spastic as it was, was just a small part of the overall cartel operation. If all that we had done was bring the DC-6 into Mexico, we wouldn't have been paid a dime, because their claim was that if they had part of the load seized, just across the border, they had lost part of the load to the Mexicans, they had other parts of the load that they couldn't bring across, they had four planes lost trying to bring it across.

At one point I even volunteered to bring it into Mexico and fly it across for them into the ranch that we had spoken about earlier, thinking that what we could do is take that load off the street, whatever there was down there. I was turned down on that.

Excuse me a second.

Mr. HUGHES. What was the question? Would the reporter read the question to Mr. Palmer, because I thought the question was, were you paid?

Mr. KLEIBOEMER. We will concede that is the question.

Mr. HUGHES. Yes, Mr. Palmer, the question is a very simple one, were you paid the money?

Mr. PALMER. Were we paid \$65 a pound?

Mr. HUGHES. Yes.

Mr. PALMER. We weren't paid directly, they paid contributions into the larger operation that was ongoing. The barge operation.

Mr. HUGHES. How much were you paid?

Mr. PALMER. How much were we paid directly, hand to hand?

Mr. HUGHES. Yes.

Mr. PALMER. Or how much did they contribute to the operation?

Mr. HUGHES. How much cash were you paid? Let's start with that.

Mr. PALMER. Between Haas and myself, probably in the neighborhood of \$600,000, \$500,000 or \$600,000.

Mr. HUGHES. And how much—

Mr. PALMER. From Cerna.

Mr. HUGHES. How much were paid in contributions in kind?

Mr. PALMER. Probably another \$700,000.

Mr. HUGHES. So \$1.3 million was paid. Gee, that wasn't too painful. Go ahead, counsel, why don't you finish the line of questioning.

Mr. GREGORY. What contributions were you to make to which this \$700,000 accredited?

Mr. PALMER. I am sorry; would you repeat the question?

Mr. GREGORY. You said you received \$600,000, approximately, in direct funds, and some \$700,000 credited to the bigger operation; is that correct?

Mr. PALMER. Yes, I did.

Mr. GREGORY. What was your obligation to contribute money to the bigger operation that led to that contribution?

Mr. PALMER. What items were paid by the traffickers? They paid crew salaries, they paid for fuel for the boat, they paid for medicine, for rigging, for refurbishing. The boat that we purchased, that Haas and I purchased, was 3 months in the process of our—we owned it for three months prior to it finally making the trip.

The other things that they paid for were crew salaries. I have a list. Would you like me to refer to that?

Mr. GREGORY. Why don't you just furnish that to the subcommittee?

[The information was not submitted.]

Mr. GREGORY. Let's move on to another matter. There was also a flight made into the Detroit area in connection with this operation in September 1987; is that correct?

Mr. PALMER. That is correct.

Mr. GREGORY. Who made the decision to bring that flight into Detroit?

Mr. PALMER. The traffickers did.

Mr. GREGORY. Do you know why, why they chose that destination?

Mr. PALMER. Yes, I do. I believe I know why. They wanted the load. The majority of the load was going to go to New York, and they were having a great deal of problems transporting the normal cocaine shipments up through Mexico. They liked the idea of going into the northern United States, and this was where we had something available for them.

They were also very interested in making a Canadian connection, and in Detroit, you have got the Windsor Tunnel that runs right back and forth across Canada with a minimum of Customs inspections. This appealed a great deal to Mr. Cerna, who was captaining that part of the conspiracy, and in fact, if I may expound, I believe that Cerna contracted with the FBI and the DEA up there to sell 130 kilos of that load in Canada.

Mr. GREGORY. Coming back to the Madrid load, did you at any point see the marijuana in Colombia, awaiting loading, that eventually went onto that ship?

Mr. PALMER. They took us on a tour down there that I can't say that that marijuana that I saw was the marijuana that went on that ship. They took us on a grand tour, and we saw a lot of marijuana, a mountain of it.

Mr. GREGORY. So, you saw marijuana that was represented to be—

Mr. PALMER. Marijuana that would—

Mr. GREGORY. Go into that shipment?

Mr. PALMER. Yes.

Mr. GREGORY. How much did you see, approximately?

Mr. PALMER. I probably saw in the neighborhood of 400,000 pounds.

Mr. GREGORY. When did you learn that the shipment was going to be considerably smaller than that, or was considerably smaller than that?

Mr. PALMER. Well, we had the first hint of it when they were loading from late at night until dawn, right off the Colombian coast. The traffickers, we were in radio contact with them, they were very concerned about daylight and the potential for helicopters or some other sort of interdiction to stumble upon them.

The Colombians, however, had paid off, supposedly paid off the Coast Guard, the Navy and the helicopter employees. They didn't want—the traffickers said they had more to put on, the boat captain said he did not want to wait for it. They elected to leave.

We asked them to estimate how much they had on board. I think they said they had 250,000. Later on, when we overflew them in an undercover airplane, they recounted the bails and estimated it to be about 180, I believe.

Mr. GREGORY. What happened to the rest of the load, to your knowledge?

Mr. PALMER. I really don't know. I don't even know if it was there or not. I think the problem we had is that we had no representative from our side at the site, and we had a major conflict brewing among the Colombians down there; they were all fighting each other to be the one loading the boat.

As a matter of fact, Mr. Cerna told me that his partner, Dangond, was on his way down to the loading site the day that the boat had left. He had another 80,000 or 100,000 pounds that he was going to put on board, but it was too late, the boat had gone. They reflected their disorganization more than anything else.

Mr. GREGORY. Let me turn to another matter. Were you present in March of 1987 when a flight that was associated with Vortex was inspected and, shall we say, challenged by Customs in Miami?

Mr. PALMER. I wasn't present when the flight arrived. I got out to the airport about an hour later.

Mr. GREGORY. What was that flight?

Mr. PALMER. It was a flight from Central America into the United States with an empty airplane with some crew members on board.

Mr. GREGORY. Who owned the plane?

Mr. PALMER. Excuse me just a moment.

[Witness confers with counsel.]

Mr. PALMER. My understanding is that the U.S. Government owned it.

Mr. GREGORY. What was your association with that flight? Why were you there?

Mr. PALMER. I was called out to the airport because someone had said that the crew was having a problem clearing Customs.

Mr. GREGORY. Did Vortex have some contractual relation with the people who owned the plane?

Mr. PALMER. We were going to do maintenance on the airplane and various repairs while it was in Miami. It was up there to have repairs and different maintenance done.

Mr. GREGORY. Was that pursuant to a specific contractual agreement that Vortex had entered into to provide such services?

Mr. PALMER. Yes. Yes, it was.

Mr. GREGORY. When was that agreement entered into?

Mr. PALMER. I don't recall the date. If you have the date there, maybe you could refresh my memory.

Mr. GREGORY. This was March 1987, is that correct?

Mr. PALMER. Yes, the date of the incident was March 1987.

Mr. GREGORY. Would it be accurate to say that this contract had been in existence for a number of months?

Mr. PALMER. Yes.

Mr. GREGORY. You have indicated that it involved providing services of a plane or planes?

Mr. PALMER. That is correct.

Mr. GREGORY. Anything else?

Mr. PALMER. My recollection is that it was probably about January, or maybe December, January I guess. Your question is, is there anything else other than ground maintenance that we performed?

Mr. GREGORY. That is correct.

Mr. PALMER. Yes, we did some things. We hired the crew members, we did some training, bought some radios.

Mr. GREGORY. What were the crew involved in this flight into Mexico that we just discussed, involved in this program?

Mr. PALMER. Were any of the crew—

Mr. GREGORY. Any of the crew on the flight into Mexico involved in the program that we are now discussing?

Mr. PALMER. Yes.

Mr. GREGORY. How many?

Mr. PALMER. One.

Mr. GREGORY. Only one?

Mr. PALMER. Yes.

Mr. GREGORY. Is this person that you are referring to someone who is now deceased?

Mr. PALMER. Yes, it is.

Mr. GREGORY. So, if we have information that suggests that, indicates that there were others involved, to your knowledge that is not accurate?

Mr. PALMER. No, it is not. Excuse me just a moment.

[Witness confers with counsel.]

Mr. PALMER. All right. There were two.

Mr. HUGHES. Let me ask you a question. Are you saying that you don't have any knowledge that Frixionne was involved?

Mr. PALMER. I never said that.

Mr. HUGHES. OK, I thought you only said one.

Mr. PALMER. He asked if the person was deceased. They are both deceased.

Mr. HUGHES. Why don't you tell us who, to your knowledge, was involved in this program on board that flight?

Mr. PALMER. Frixionne and Haas. They are both deceased. I thought you were referring to Frixionne.

Mr. HUGHES. So, you want to correct your testimony. It was Frixionne and Haas, both were involved?

Mr. PALMER. Yes.

Mr. HUGHES. OK. They are both dead, of course?

Mr. PALMER. Yes, they are.

Mr. HUGHES. Let me see if I can just take you back. I am a little confused about a few things, Mr. Palmer. As I understand your testimony, your testimony is that when you left Miami in September 1986 for Colombia, Santa Marta, you—those of you on board that plane, there were six, as I understand it, six including yourself on board?

Mr. PALMER. That is correct.

Mr. HUGHES. And they were the same six that came back?

Mr. PALMER. That is also correct.

Mr. HUGHES. There is nobody else on board.

Mr. PALMER. Yes.

Mr. HUGHES. And when you left, you weren't sure where you were going to put down except that you knew that it had to be in the United States somewhere?

Mr. PALMER. That is correct.

Mr. HUGHES. Yes. And when you got down there, and you loaded 20,000 pounds of marijuana at Santa Marta aboard that plane, it was sometime between Santa Marta and when you reached some point in your flight, you realized you didn't have enough fuel? Is that your testimony?

Mr. PALMER. Your question was, was there some point in the—point in the flight when we realized we wouldn't have enough fuel?

Mr. HUGHES. Yes.

Mr. PALMER. What I said, there was a point in the flight where we became concerned about how much fuel we would have and whether or not we would have enough to complete the entire mission. That was my testimony, I believe.

Mr. HUGHES. What were the weather conditions, do you know? Did you have a head wind, a tail wind? What were the conditions?

Mr. PALMER. We covered a lot of territory. We had a head wind for—my recollection is that we had a head wind out over the western Caribbean and up in Merida, and then after that, we had a tail wind.

Mr. HUGHES. Are they different than the conditions you had in your flight from Miami?

Mr. PALMER. From Miami to Colombia?

Mr. HUGHES. Yes.

Mr. PALMER. I don't recall. We had plenty of fuel on board, so, you know, 10 knots of head wind wouldn't matter to you too much.

Mr. HUGHES. What was the capacity of the fuel tank?

Mr. PALMER. 5,500 gallons.

Mr. HUGHES. How long have you been flying?

Mr. PALMER. Twenty years.

Mr. HUGHES. All right. You are suggesting you didn't know whether you had enough fuel when you left the air strip at Santa Marta, Colombia?

Mr. PALMER. What I said was they shorted us the fuel that we were supposed to have. As a matter of fact, we didn't know until after we had taken off that we had less than what we had planned on having; however, it was only 600 gallons, that is a little more than an hour, about an hour and a half.

Mr. HUGHES. Did you fuel up in Santa Marta?

Mr. PALMER. The orders were that we wanted full fuel down there, but they didn't give us full fuel, there was some confusion among the crew.

Mr. HUGHES. What did your gauges indicate when you got on the plane?

Mr. PALMER. There are, I believe, 10 gauges on this airplane, 4 of which worked. The DC-6 is very famous for not having all the fuel gauges working because of the construction of the fuel system. Generally speaking, most DC-6s that you get on board have the maintaining gauges working and the rest of them are probably inoperative.

Mr. HUGHES. So you had one gauge that was inoperative?

Mr. PALMER. No, I would have probably 6, if there were 10 gauges.

Mr. HUGHES. Well, how did you know, if the gauges were inoperative, that you were short of fuel?

Mr. PALMER. Because the guy that stuck the tanks, that is a term that we use, when you put a stick down in the tank to see how much you have got on board, said that we were, when he got back on board the airplane and started adding up what we had stuck in each tank, when we are taxiing out, he said it looks like we didn't get full fuel, we are short in the neighborhood of 600 gallons. We were already in the air.

Mr. HUGHES. How far out were you at that time?

Mr. PALMER. May I just interject something?

Mr. HUGHES. Sure.

Mr. PALMER. That is not an operation like a scheduled airline. I mean, we were on a grass strip, out in the boondocks, we are deep in Colombia, everybody is concerned about maybe an Army patrol that is not on the take coming up on us, a helicopter, anything like that, and so the emphasis is on, get in and get out as quickly as possible.

Mr. HUGHES. I understand that. But you and Haas were both experienced pilots, and I would think the first thing you would want to do because you took off, if your fuel gauges weren't working, would be to stick the tank before you left the field; how long does that take? That seems to me to be common sense, particularly if you had a flight the distance that you had, what, 1,300 miles to take?

Mr. PALMER. Maybe you didn't hear me, I said they did stick the tanks. It wasn't until we got off the ground that we realized that we would come up maybe a little short. It looked like we had enough on board, we would have, in fact, had enough on board to make the flight and have two hours of reserve is what we thought.

Mr. HUGHES. Now, Mr. Palmer, if you stuck—if you stuck the tanks, then you would find that you either had a full tank or you didn't have a full tank. Would you? Whether the fuel gauges are working or not.

Mr. PALMER. That is what I said.

Mr. HUGHES. No, I don't think that is what you said.

Mr. PALMER. I said they stuck the tanks. I don't mean to be argumentative with you.

Mr. HUGHES. I don't mean to be argumentative with you, either, but you stuck the tanks before you left and you discovered you

either had enough or you didn't have enough, and if you didn't have enough, the first thing you would want to do as an experienced pilot is to get more fuel.

Mr. PALMER. Mr. Chairman, respectfully, we did not purposely not have enough gas on board that airplane when we left Colombia.

Mr. HUGHES. I am not suggesting that. I just don't understand a seasoned pilot not making sure he had enough fuel for the flight that you were making, especially with a load of contraband, as you suggested. Let me just pursue something else.

The course you took would take you across the Merida; is that correct?

Mr. PALMER. I am sorry, where?

Mr. GREGORY. Merida, the Yucatan Peninsula?

Mr. PALMER. Close to it.

Mr. GREGORY. And the line that you would take would take you fairly close to McAllen; would it not?

Mr. PALMER. Not too far away.

Mr. HUGHES. In fact, you had to pass right by McAllen, would you not?

Mr. PALMER. I believe within 100 miles.

Mr. HUGHES. Well, that is pretty close. How long, 100 miles—how fast was the plane traveling? What does it do?

Mr. PALMER. 180 knots.

Mr. HUGHES. Take you what, 180 knots, 20 minutes to run into McAllen at the closest point?

Mr. PALMER. Thirty-six minutes.

Mr. HUGHES. Thirty-six minutes. Were you short of fuel at that point? Is that your testimony?

Mr. PALMER. My testimony was that the mission was to overfly the strip—

Mr. HUGHES. I understand that, just answer my question.

Mr. PALMER. That was my testimony.

Mr. HUGHES. Yeah, OK. Why didn't you, were you also aware of the fact you were short of fuel at that point when you were 100 miles from McAllen?

Mr. PALMER. Mr. Chairman, if I—

Mr. HUGHES. Do you misunderstand my question? Let me repeat it. My question was, when you were 100 miles from McAllen, did you realize you were short of fuel? It is a very simple question.

Mr. PALMER. We knew that we were short of fuel before we were 100 miles from McAllen, but we didn't know how short we were.

Mr. HUGHES. Why didn't you tell the folks at DEA when you were there that you were short of fuel, had to go into McAllen, fuel up and then overfly the field if you wanted a cover for your operation, why didn't you do that?

Mr. PALMER. Mr. Chairman, if I had a year to think about it and a forum like this and all the advantages we have with hindsight, I might very well have done something just along those lines. However, there was another complication. That thought did cross our mind. It is just not that simple to just drop in, fuel up, and in the middle of the night when all the FPO's are closed, take back off again.

Once that load is in the United States, that is it, we can't take off again with a load, that is it, it is over with.

Mr. HUGHES. Mr. Palmer, your testimony, as I recall it, is that you flew to the airstrip, the clandestine strip that you had prearranged with the traffickers, you wanted to overfly that because you could not maintain radio contact with them. Something occurred with, I suspect, their system where you couldn't reach them on the ground?

Mr. PALMER. My testimony was that our situation was further complicated by the fact that we were not able to communicate with the traffickers that were on the ground in Mexico.

Mr. HUGHES. Isn't that what I said? Yes. You couldn't talk to them on the ground, so you had to overfly the strip. So your testimony is you overflew the strip, you went and overflew the strip and wanted to let them know that you were in the area, but then you were going to come up with some story, this is what I understood your testimony to be, some story that would enable you to go back to the United States with your plane.

But then you were short of fuel, so you landed. Now, do I misunderstand you?

Mr. PALMER. No, you don't misunderstand me.

Mr. HUGHES. All right. Now, how were the traffickers on the ground when you are circling going to know if that is your game plan, that you are not really pulling one on them anyway when all you do is circle them and take off? Do you think you are going to persuade the traffickers on the ground that you are on the level?

Mr. PALMER. Yes, I do. I think it is much more demonstrative if you overfly them and they see that big airplane and hear those motors and you are talking to them on the radio and you tell them you have got this problem. I do. That is why it was done.

That is the way Haas felt and the rest of the group felt.

Mr. HUGHES. I thought that—

Mr. PALMER. We could not reach them on the HF when we were 40 miles out we were talking to them on the two-meter radio. That was the short-range communications. You can't talk on an HF at a short range.

Mr. HUGHES. You were flying over at that point when you were 40 miles out before they saw you. You reached them on the ground. How far were you from the Continental United States at that point?

Mr. PALMER. When we were 40 miles out?

Mr. HUGHES. Yes.

Mr. PALMER. I don't know. I am looking at your map. I will assume it is about maybe 150 miles.

Mr. HUGHES. Well you flew along the border, did you not? Take a look at the map.

Mr. PALMER. I am looking at the map. What you are talking about here, see, there is a big valley there, high mountains. We were a little bit—we had taken a jog to the south of where the strip is and came up to it from the south. So our distance to the border was, I don't know what it was, but it was a moot point.

I mean, if we are going to fly to the border, get inside the Continental United States, crash the airplane, there was no place to land.

Mr. HUGHES. Did you check the fuel at that point?

Mr. PALMER. At which point, we were 140 miles away from the strip.

Mr. HUGHES. When you had radio contact with the ground at the clandestine field in Mexico and you finally reached the traffickers, all right, did you check the fuel at that point?

Mr. PALMER. We were looking at the fuel continuously at that point.

Mr. HUGHES. How much fuel did you have at that point?

Mr. PALMER. Not very much. The gauges were on empty. The gauges, Mr. Chairman, are—you have four fuel gauges reflecting how much fuel you have in each individual tank. Alright. If you have the—I wish I had one here so I can show you what it looks like, but you can't even see 100 gallons, you can't see it on the gauge, much less 50 gallons.

So an empty—you may have 200, you may have nothing.

Mr. HUGHES. Well, that is not the only way to check your fuel, though, is it?

Mr. PALMER. We couldn't walk out on the wing and stick them. I mean, that was the only other alternative to us.

Mr. HUGHES. At that point you weren't sure how much fuel you had, 40 miles out?

Mr. PALMER. Forty miles out we were——

Mr. HUGHES. One of the reasons why you headed, as I understand it, to this clandestine field in Mexico was because you couldn't reach the traffickers. Now, at some point you did reach the traffickers. You weren't sure how much fuel you had. Did it occur once you reached the traffickers, you could radio that you were having engine problems, you were short of fuel and you couldn't land at the clandestine strip and then take it back to the United States?

You had been in contact with DEA, had you not?

Mr. PALMER. Mr. Chairman, we were out of gas, OK? We could have flipped a coin and maybe tried to make it into the United States and crashed the airplane. Three good friends of mine are dead right now and that airplane crashed because it ran out of gas. NTSB is investigating sabotage on that airplane as a result of the publicity.

These people are dead and nothing will bring them back.

Mr. HUGHES. Well, it seems to me that your story is just straining credulity in this respect. Your situation is that you lost radio contact. You were low on fuel and yet as a seasoned pilot, the first thing you do is check the fuel; that you—while the intent was to go into the United States, you had to convince the traffickers that you were still on the level, so your intent was to go fly over the field.

When did you discover you couldn't do that, at what point? At what point in the flight? Where were you?

Mr. PALMER. I don't remember. It was some time within an hour.

Mr. HUGHES. Did you notify DEA?

Mr. PALMER. Haas, I believe, called DEA, yes.

Mr. HUGHES. Did you tell DEA you were putting down in Mexico at that point?

Mr. PALMER. I don't know what Haas told them. I believe he told them we were not going to be able to make it. We were committed.

Mr. HUGHES. What did Haas tell you about DEA's response?

Mr. PALMER. He didn't say anything at that point. We were too busy.

Mr. HUGHES. But DEA was aware—your testimony is DEA was aware of the fact that you were aborting your intent to go into the United States and to McAllen, one of the three strips that had been preselected, and that you were going to put it down in Mexico at that point. DEA was notified of that?

Mr. PALMER. I believe that they were.

Mr. HUGHES. Let me, if I might also take you back to another area that gives me some concern. You and your colleagues received about \$1.5 million in considerations, in-kind, as well as cash, \$600,000 in cash and \$700,000 or thereabouts in contributions in mind.

Your testimony was that Haas mortgaged his home, otherwise, borrowed moneys to buy this vessel, the Madrid, for a total of \$275,000, and you, yourself, put up perhaps \$50,000 to \$60,000 for outfitting the ship. Is that your testimony?

Mr. PALMER. Yes, it is.

Mr. HUGHES. All right. Now, who paid for the ship, the Madrid?

Mr. PALMER. That was the money that Haas got—

Mr. HUGHES. He mortgaged his home.

Mr. PALMER. Yes.

Mr. HUGHES. And otherwise borrowed the money for the ship.

Mr. PALMER. Yes.

Mr. HUGHES. The \$50,000 to \$60,000 you put into it was for outfitting it with what, electronic equipment, radio communications?

Mr. PALMER. We had—

Mr. HUGHES. Provisions—

Mr. PALMER. We had pumps to replace, nuts to buy, we had paint to purchase. We had work to be done. There were radios that were purchased.

Mr. HUGHES. You indicate that the \$600,000 was paid to you in cash. How much of that cash did you receive?

Mr. PALMER. The way that the money was paid was like this: We were always in arrears on bills that were owed and things that had to be taken care of. When we finally were able to coax any money out of the Colombians, it went to whatever it was that was crying the loudest.

How much went into my hand—

Mr. HUGHES. I didn't ask you what you did with the money. I asked you how much cash you received. It is a very simple question. We seem to have a lack of communication when I start talking about money.

Mr. PALMER. That is the way that you asked the question. I apologize.

Mr. HUGHES. How much cash did you receive?

Mr. PALMER. Probably \$400,000.

Mr. HUGHES. Cash. And what did you do with the \$400,000?

Mr. PALMER. Well, we spent it on—I spent it on crew salaries, on fuel, oil, repairs to the second boat, provisions. We had 10 or more people working on this thing for over a year, civilians, that had to be paid. We used it for travel, airline tickets, for Lear jets.

Mr. HUGHES. What did you pay the crew?

Mr. PALMER. Which crew? The crew on the Madrid; my recollection is approximately \$120,000.

Mr. HUGHES. \$120,000?

Mr. PALMER. On the Artful Dodger in the neighborhood of \$180,000.

Mr. HUGHES. \$180,000?

Mr. PALMER. Yes.

Mr. HUGHES. Including the monies retained for yourself. When you say crew, you are including yourself in the crew?

Mr. PALMER. No.

Mr. HUGHES. Exclusive of yourself.

Mr. PALMER. Exclusive of myself, yes.

Mr. HUGHES. How much was the captain paid?

Mr. PALMER. I don't have those papers with me. He was paid in the vicinity of \$30,000. We had two captains. I think all together they probably got \$50,000 between them.

Mr. HUGHES. Were they the highest paid?

Mr. PALMER. Yes.

Mr. HUGHES. How about the other crew members? What were they paid each? These were deck hands.

Mr. PALMER. On the Madrid?

Mr. HUGHES. Yes.

Mr. PALMER. They were supposed to get in the neighborhood of \$5,000 or \$6,000 each. One of the captains was on board and stole most of the crew's money. I think they ended up getting like \$2,000 apiece.

Mr. HUGHES. But they were to have been paid \$5,000?

Mr. PALMER. Yes.

Mr. HUGHES. \$5,000.

Mr. PALMER. \$5,000 or in that neighborhood. There were different scales. An engineer was supposed to receive \$15,000. There was a bos'n's mate that got a little more than the deck hands or something.

Mr. HUGHES. What did the \$700,000 in kind contributions go toward?

Mr. PALMER. We got repairs on the Madrid in excess of \$165,000. We have got equipment in excess of \$85,000. We have got provisions in excess of \$150,000.

Mr. HUGHES. What kind of provisions?

Mr. PALMER. Fuel, oil, food, medicine, miscellaneous, customs, together for 9 months, \$35,000. The crew salary was the smallest expense, \$120,000. Barge rental, \$60,000, Artful Dodger repairs, \$130,000; equipment \$75,000; provision, \$95,000.

Mr. HUGHES. Did you keep receipts for all the provisions you bought and repair work?

Mr. PALMER. We have receipts for some things. Others we do not. It is not a receipt business.

Mr. HUGHES. Did DEA oversee what was spent?

Mr. PALMER. Spent where?

Mr. HUGHES. Did you ever review these figures with DEA?

Mr. PALMER. The figures I am reviewing with you right now?

Mr. HUGHES. Yes.

Mr. PALMER. Some of the fees were reviewed with DEA. There was an audit conducted as a matter of fact on the fund that we had

to pay for the barge and the tug boats that were part of the operation.

Mr. HUGHES. When was that that the audit was done.

Mr. PALMER. I don't know. You would have to ask them. I think about 1 year ago.

Mr. HUGHES. This was after the fact?

Mr. PALMER. Yes.

Mr. HUGHES. How about during the time, when the \$1.3 million came to you in kind and in cash did DEA sit down with you and review what you were—review with you what you were going to use it for?

Mr. PALMER. I know that you asked me a yes or no question, but I don't think it is fair to answer yes or no to the question. I would like an opportunity to respond.

Mr. HUGHES. If you can answer it yes or no and then explain it.

Mr. PALMER. The answer is not always. This operation was very far flung. It took place in Aruba, Panama, Colombia and Miami and Texas and New York, Detroit, Michigan, and in Belize. It took place on the open water and in the air. There were many occasions where we didn't have the opportunity to have a DEA agent present when money exchanged hands.

Mr. HUGHES. How much of the time—

Mr. PALMER. However, on numerous occasions we made sure there was a DEA agent that was there when money changed hands and went through great pains to do it and wasted a lot of time in the process.

Mr. HUGHES. Tell me—

Mr. PALMER. It is the nature of the business.

Mr. HUGHES. Tell me that it was at DEA they reviewed what you were going to spend this money on, \$1.3 million, prior to the time you spent it. Give me a name.

Mr. PALMER. Mr. Chairman, I didn't know it was going to be \$1.3 million. All that I knew was we cried long enough and loud enough that the traffickers would pick up some of the expenses that needed to be paid.

Mr. HUGHES. Mr. Palmer, I asked you a simple question.

Mr. PALMER. I am trying to respond to your question.

Mr. HUGHES. I don't think you are being responsive at all. I am after a name at the Drug Enforcement Administration that reviewed with you what you were going to spend this money on before you spent it, \$1.3 million.

Mr. PALMER. My answer to your question is this: I didn't know at any one time there was going to be \$1.3 million. It turned out over the space of a year. There were several different agents that were there at one time or another or not too far off when money may or may not have changed hands.

But you say, OK, \$1.3 million as if all of a sudden there is \$1.3 million on the table and it got paid out and there had to be somebody there.

Mr. HUGHES. What was the largest sum you ever received at one time?

Mr. PALMER. \$150,000.

Mr. HUGHES. When you received \$150,000, did you review what you were going to do with that \$150,000? You got with the trafficker and with the Drug Enforcement Administration and if so, who?

Mr. PALMER. I paid bills with it immediately.

Mr. HUGHES. That wasn't my question. My question was, did you review it with a Drug Enforcement agent, and if so, who?

Mr. PALMER. The answer to your question is, no. I don't recall reviewing that particular transaction with the DEA.

Mr. HUGHES. Am I correct in assuming that in your travels to Aruba and all the other places you traveled, there was no one, in fact, from the DEA participating in your transactions.

Mr. PALMER. That is not true.

Mr. HUGHES. All right. Tell me the exceptions.

Mr. PALMER. In Aruba—I was in Aruba, part of our crew was in Panama with the ship. I was in Aruba awaiting a meeting that was going to take place between the Colombian traffickers and part of the Cerna group from the United States. They were going to bring money down with them. I had a Drug Enforcement agent with me and made sure that he was present when the money changed hands.

Mr. HUGHES. All right.

Mr. PALMER. Because that money was not going to go directly back into our coffers, it would be used for expenses. It was money that went from the traffickers in the United States to the traffickers in Colombia.

Mr. HUGHES. Mr. Palmer, in your travels to the Caribbean, South America, in how many instances did you report to a Drug Enforcement agent?

Mr. PALMER. In all instances.

Mr. HUGHES. You never traveled anywhere that you didn't touch base with a Drug Enforcement agent?

Mr. PALMER. That is correct. Are you talking about—now, let me—you say touch bases. I want to make sure I am answering the question that you have asked. Are you talking about an agent in residence or the agents that I was working with in McAllen.

Mr. HUGHES. Either one.

Mr. PALMER. Always.

Mr. HUGHES. All right. Who was there at Santa Marta? I trust there was nobody there from the DEA.

Mr. PALMER. Absolutely not.

Mr. HUGHES. How do we know that 500,000 pounds of marijuana wasn't loaded on that boat? Your testimony is that only perhaps 180,000 pounds of marijuana was loaded on, the captain got nervous and the balance I have wasn't loaded on board, that the boat took off. How do we know that?

Mr. PALMER. I believe that if you would look a little bit further than my word, you might find that the boat was under pretty intense surveillance the entire time from when it picked up the load from when it was brought into Texas.

Mr. HUGHES. They can tell how much was loaded on board is your suggestion.

Mr. PALMER. My suggestion is they can tell whatever was put on board made it to the destination.

Mr. HUGHES. How could they tell what was put on board? Are you suggesting that the DEA or other intelligence agencies could determine how much was put on board?

Mr. PALMER. I don't believe that was your question. Your question was how do you know that whether or not 500,000 was put on board or what happened to it is what I believed you inferred.

Mr. HUGHES. Yes.

Mr. PALMER. How do we know that that—your follow-up question was how do we know how much was on board?

Mr. HUGHES. That is correct.

Mr. PALMER. Because we know how much was off-loaded at the destination. That is how we know.

Mr. HUGHES. How do we know that?

Mr. PALMER. I guess you will have to take the word of the people, the 40 or 50 U.S. Government agents that were there off-loading the boat.

Mr. HUGHES. I am talking about when it was loaded on board in Colombia.

Mr. PALMER. Would you please rephrase the question for me, then, because I don't understand it.

Mr. HUGHES. I am trying to find out how we can verify that only 180,000 pounds of marijuana was loaded on board the Madrid when it was loaded in 1987.

Mr. PALMER. I believe the figure was 128,500 pounds. You want to know how you can verify it?

Mr. HUGHES. There were no DEA agents there. I am not aware of any intelligence gathering agencies that monitored it. We know that there was, from the testimony, that there was 500,000 pounds to be loaded on. You have testified to that.

Mr. PALMER. I did not testify to that.

Mr. HUGHES. What was their available to be loaded on?

Mr. PALMER. I don't know what was there. What my testimony was, that when we went down and crawled around in the mountains of Colombia, we saw in the neighborhood of 400,000 pounds. You see, during this operation, all of these Colombians were all trying to play king of the mountain. All of them want to be the one individual that is going to load that boat.

We don't want just one guy. We want a knock-out punch against all of them. We want the cartel to band together, put their load on there and we are going to take it away from them and we are going to bust as many of them as we can. That is what we want. However what we want isn't necessarily what is going to take place.

Mr. HUGHES. That wasn't my question. My question was, how do we know, except from what you have told us, how much of it was actually loaded on, because some was left behind. Your testimony is that the captain got nervous and wanted to go.

Mr. PALMER. It was broad daylight.

Mr. HUGHES. The balance wasn't loaded on board. We are talking about the balance of perhaps as much as 270,000 pounds of marijuana.

Mr. PALMER. Well, perhaps I should take the time now to review with you the stories that the Colombians told us. Would you like me to do that?

Mr. HUGHES. No. I am just asking you a very simple question. How do we know, except by your testimony, that we didn't load the entire 400,000 pounds on that—on the Madrid, and that when you got close to the beaches, the Continental United States, 270,000 pounds was off-loaded into the sea or on to another ship or somewhere else?

Mr. PALMER. Then what you would be saying if you say that is that the Drug Enforcement Administration had complicity in doing what you just described because there was a Drug Enforcement Administration—there was more than two agents on board that boat from Belize all the way back into Texas.

Mr. HUGHES. You did have DEA agents on board?

Mr. PALMER. From Belize, off of Belize back.

Mr. HUGHES. How about before Belize?

Mr. PALMER. Were there agents on board? No, there were not.

Mr. HUGHES. OK.

Mr. PALMER. You know, the reason that—I am sorry for expounding on your question a little but, maybe some background would do both of us some good. The reason why whatever is put on in Colombia is going to make it into the—to wherever the destination is, is because the people that loaded that have people on board the boat that are working for them.

For instance, one of the Americans that was involved as part of the Cerna group put one of his people on board the boat to make sure that the load got to where it was supposed to go and there weren't any shenanigans and none of the load was stolen from him.

He even tried to put another guy on there. As a matter of fact, it is the man who is referred to in your opening remarks, John Bevan, the Englishman who someone feels was treated so harshly. What Bevan is—the guy running the operation on the American side tired to force Bevan into the captain's position on the boat. I kept him from doing it, but because Bevan really didn't want to be captain of the boat. I couldn't see exposing the guy to anymore problems than he already had.

We had a boat captain. He had someone there to watch his part of the load. The fact of the matter is, everyone that is involved in that, from the trafficker end of it, all want to see all of that load make it the whole way. If they don't, if it doesn't, if something happens, there is going to be a lot of retribution taking place.

Mr. HUGHES. Who actually was in charge when you left Colombia before you got to Belize?

Mr. PALMER. In charge of what?

Mr. HUGHES. Who actually was the leader?

Mr. PALMER. Who captained the boat?

Mr. HUGHES. Who was making the decisions as to what was going to be loaded on and the destination and so forth, who made those decisions.

Mr. PALMER. The Colombians did. We were the transportation.

Mr. HUGHES. What was your role then?

Mr. PALMER. We were the transportation. We supplied the transportation for them. That is what we did. We didn't have any of our people on board the vessel when it left Colombia. However, there was another counterfaction from the American side that had one of his people on board.

Mr. HUGHES. What you are saying is, the control was, when it left Colombia before it got to Belize, there were other factions on board the boat that had an interest that wanted to make sure it reached the ultimate destination of the United States.

Your situation is they wouldn't sanction off-loading part of it before you got to Belize, such as in Panama.

Mr. PALMER. We will put—

Mr. HUGHES. Is that your testimony?

Mr. PALMER. Yes, it is.

Mr. HUGHES. Now, when you flew from Miami—taking you back now to 1986 when you flew the plane to Santa Marta, Colombia in September 1986, was there a transponder on board that plane?

Mr. PALMER. Yes, there was.

Mr. HUGHES. Was it activated?

Mr. PALMER. Which one?

Mr. HUGHES. Well—

Mr. PALMER. We had two transponders on board. We had an air traffick control transponder and a customs transponder.

Mr. HUGHES. Was either one of them activated?

Mr. PALMER. Leaving the United States I believe the transponder was on.

Mr. HUGHES. How about, was the customs transponder activated?

Mr. PALMER. We had—there was no radar to track it. I don't now whether we had it on or not. I don't believe we did. There would be no reason. We were in the most desolate part of Mexico.

Mr. HUGHES. How about returning from Colombia, were the transponders on?

Mr. PALMER. That is what I am referring to. We were in the most desolate part of Mexico. There is no radar coverage. It wouldn't make any sense.

Mr. HUGHES. The Customs could not have picked up that transponder in your plane when you approached the Continental United States. Is that what you are saying.

Mr. PALMER. Well, going into the Continental United States they probably could, but not into Mexico, no.

Mr. HUGHES. They could not have tracked you.

Mr. PALMER. Not that I know of.

Mr. HUGHES. Was there any transponders put in any of the bales of marijuana?

Mr. PALMER. We didn't have any with us to put in the bales.

Mr. HUGHES. Did you discuss this with the DEA?

Mr. PALMER. There wouldn't be any reason to. I mean, the drugs would be in control of the Drug Enforcement Administration.

Mr. HUGHES. The DEA obviously didn't have control because it landed in Mexico with 20,000 tons or pounds of marijuana.

Mr. PALMER. I don't think you are being fair, Mr. Chairman.

Mr. HUGHES. Pardon me.

Mr. PALMER. I don't think you are being fair. I don't think your statement is a fair statement.

Mr. HUGHES. Am I misstating it? You didn't land in Mexico with 20,000 pounds of marijuana.

Mr. PALMER. Mr. Chairman, we landed in Mexico under extreme duress. We risked our lives. We could have just as easily crashed that air plane on the border, across the border, some place in

Mexico into the side of a mountain. The fact is that we survived. Also, the fact is that if any of that marijuana made it to the streets in the United States, I don't know about it. It is also a fact that we did everything that we could do to try to interdict it to try to pass the information to the DEA so they could interdict it.

Mr. HUGHES. Mr. Palmer, when you set that plane down in a clandestine strip in Mexico, you knew the traffickers were going to begin to distribute that marijuana, didn't you? That was the whole purpose of the traffickers picking up the marijuana, isn't that so?

Mr. PALMER. We knew—

Mr. HUGHES. You also knew the ultimate destination was the United States.

Mr. PALMER. Which question would you like me to answer?

Mr. HUGHES. Well.

Mr. KLEIBOEMER. I counted four.

Mr. HUGHES. When you landed at that clandestine strip in Mexico with 20,000 pounds of marijuana and the traffickers were there to receive it—

Mr. PALMER. We landed there to save our lives. We did not land there to deliver 20,000 pounds purposefully to the Mexicans or Colombians.

Mr. HUGHES. My question is, when you landed the plane in Mexico, with 20,000 pounds of marijuana, you knew the traffickers were going to be there, did you not?

Start with that question.

Mr. PALMER. We knew it when we were about 40 miles out when we were finally able to establish contact with them.

Mr. HUGHES. You knew before that, that the traffickers were going to be there. That was the average amount, wasn't it?

Mr. PALMER. They had two strips. They had that one and they had another one.

Mr. Chairman, please, you know, understand something here or try to bear with me for just a moment. We looked at, I think, four strips deep in the heart of Mexico. We looked at them from the air and from the ground. We walked them off, we located what their positions were. We cited them out and passed a long all that intelligence information. The strip, the most hazardous strip of all the strips we looked at was the one up on the border.

We never looked at that strip from the ground. We never had any intention at all of landing at that strip. Sure, We flew over it, with one of the traffickers, to demonstrate to them that we were trying to check out their strip and make sure it was OK. We had no intention of landing there.

Believe me, I was going—if I was going to use that strip, I would have walked that thing off. I would have been in a jeep, measuring how far it was from one mountain to the strip and I would have had an approach laid out.

We had one of that. Our intention was to over-fly the strip, come back into the United States, off-load the air plane and put the drugs into the control of the DEA and bust these people.

Mr. HUGHES. Let me ask you the question again. You haven't answered the question. My question was, when you put down that air plane at that clandestine strip, you knew that the traffickers were there. You knew at least when you were 40 miles out that the traf-

fickers were there. When you put it down you knew the traffickers were going to take that contraband. Any question about that?

Mr. PALMER. That is correct.

Mr. HUGHES. All right.

Mr. PALMER. That was our assumption.

Mr. HUGHES. You knew that that contraband, that marijuana was destined for the United States, didn't you?

Mr. PALMER. We immediately tried to determine where that marijuana was going to be stored and how they were going to try to bring it into the United States, yes.

Mr. HUGHES. You did determine they were going to take it into the United States?

Mr. PALMER. That was the intention from the beginning.

Mr. HUGHES. Now, when you became airborne again after you refueled, and I presume you were on the ground for a short period of time, long enough to offload the marijuana and refuel?

Mr. PALMER. That is not my testimony.

Mr. HUGHES. What is your testimony?

Mr. PALMER. My testimony was that we were on the ground for almost two hours because it took them a long time to try to refuel us, and they shorted us again.

Mr. HUGHES. Well, I am not saying how long it took to refuel. I said you were on the ground just long enough to refuel and offload the marijuana and you were airborne again, isn't that so?

Mr. PALMER. I believe your statement was—I won't argue with the semantics, but I think you said a short period of time. The answer is no, it was a long period of time. We left as soon as we thought we could.

Mr. HUGHES. When you got airborne, did you maintain radio contact with the Drug Enforcement Administration?

Mr. PALMER. We attempted to try to contact the DEA, but again we were hampered by the limitations of the HF radio.

Mr. HUGHES. How long did it take you to travel from where you were in Mexico at this clandestine strip to where you landed in Texas?

Mr. PALMER. My recollection is about 2½ hours.

Mr. HUGHES. 2½ hours. Did the DEA meet you there?

Mr. PALMER. My testimony is, yes, they did.

Mr. HUGHES. Did you tell them that there was a problem, the traffickers now have the marijuana?

Mr. PALMER. I believe Mr. Haas might have related that information over the radio telephone prior to our landing in Mexico.

Mr. HUGHES. What did you tell him was the destination for that marijuana?

Mr. PALMER. Into the United States. What—I tried to identify the routes that they were going to take because, you see, we didn't know where these people were headquartered at, what their distribution network was, anything. All of this had to be identified. So the only place to try to get it was going to be at the border. That is what we tried to do at a great risk to ourselves, we were asking stupid questions like, gee, you know, can you get all this across, when and where are you going to do it? We were successful in getting that intelligence without tipping our mitt to them.

Mr. HUGHES. How long after you landed in Texas, which took you 2½ hours, did it take you to notify the DEA?

Mr. PALMER. That we were going to land?

Mr. HUGHES. That you have a load of dope, 20,000 pounds, in Mexico, the traffickers have it and it is destined for the United States?

Mr. PALMER. You are talking about 2½ hours' time, aren't you?

Mr. HUGHES. Yes. Were they there to meet you?

Mr. PALMER. They met us when we got in.

Mr. HUGHES. They knew right away, as soon as you landed?

Mr. PALMER. Before that. Haas told them that we were going to have to land in Mexico.

Mr. HUGHES. So they——

Mr. PALMER. That was his last radio contact.

Mr. HUGHES. So did they know that the traffickers were going to be at this strip?

Mr. PALMER. I am sure they did. Will you excuse me for a moment. I have been testifying now for 3½ hours. I would like, if you wouldn't mind, can we go through this and at some point take a break sometime in the next 10 minutes.

Mr. HUGHES. Why don't we take a break right now. The subcommittee stands recessed.

Mr. PALMER. Do you want to finish your line of testimony?

I will be glad to answer. I would like to get a break at the end of it.

Mr. HUGHES. Get your thoughts together, and is 10 minutes sufficient?

Mr. KLEIBOEMER. Mr. Chairman, 10 minutes for a recess is fine. If you are suggesting he needs more time to get his thoughts together, that is a different matter. We can talk about that privately.

Mr. HUGHES. OK.

Mr. PALMER. I don't need any time to get my thoughts together.

Mr. HUGHES. We will recess for 10 minutes.

[Recess.]

Mr. HUGHES. The subcommittee will come back to order. Will the reporter repeat the last question for the witness.

[Whereupon, the question was read by the reporter.]

Mr. PALMER. My answer, I am sure that they did.

Mr. HUGHES. Well, you know at the very least they knew when you landed in Texas, the traffickers had the 20,000 pounds of marijuana.

Mr. PALMER. That is what——

Mr. HUGHES. You believe they knew that when they were notified that you were being—you were diverting—going into this clandestine strip in Mexico by radio contacts?

Mr. PALMER. They would not have known which one. The traffickers told us we had two strips. We didn't know which one we were going to use until we got close enough.

Mr. HUGHES. When the DC-6 that you flew from Miami to Colombia and back into Mexico left Miami for Colombia in September 1986, who from the Drug Enforcement Administration saw you off?

Mr. PALMER. I don't recall seeing any Drug Enforcement people there.

Mr. HUGHES. There was nobody there?

Mr. PALMER. That I know of.

Mr. HUGHES. Now, when the DEA met you at McAllen Airport after you dropped off a load of marijuana and refueled in Mexico, in September 1986, what was DEA's reaction to what had occurred when you met them in Texas?

Mr. PALMER. We went to the hotel and had a rest. Mr. Haas discussed it with DEA, and my assumption is they wanted to do whatever they could do to set up an interdiction.

Mr. HUGHES. Did they meet you at McAllen?

Mr. PALMER. When we arrived back, yes, they were there.

Mr. HUGHES. Were they satisfied or dissatisfied with what transpired?

Mr. PALMER. Of course, they were unhappy that we didn't have the load there, but they were happy to have us alive, too.

Mr. HUGHES. How do you know they were dissatisfied? What was said and by whom?

Mr. PALMER. Well, by natural assumption, I mean, they are not going to back-hand us and berate us. They understood the severity of the circumstances.

Mr. HUGHES. I don't want you to assume anything. I am trying to find out, were you present when the DEA walked up to you, either at the plane or otherwise at the airport?

Mr. PALMER. At U.S. Customs. We cleared Customs.

Mr. HUGHES. Were you present?

Mr. PALMER. Yes.

Mr. HUGHES. What was their attitude toward you?

Mr. PALMER. They were quiet. They wanted us to finish clearing Customs.

Mr. HUGHES. Did they indicate dissatisfaction with you?

Mr. PALMER. I don't recall any dissatisfaction.

Mr. HUGHES. Well, you would have known if they were unhappy with you, wouldn't you?

Mr. PALMER. Not always. I mean, if he backhanded me, I would assume he was unhappy with me, but that didn't happen. People don't always express their unhappiness in a verbal assault or physical assault.

Mr. HUGHES. Did they say to you you weren't authorized to make that run, did they say that to you?

Mr. PALMER. Mr.——

Mr. HUGHES. You were not authorized to make that run to Colombia?

Mr. PALMER. Mr. Haas was the spokesman for the group. Mr. Haas spoke to the agents present.

Mr. HUGHES. You were present, were you not?

Mr. PALMER. I was in U.S. Customs, clearing Customs with everybody else. As a matter of fact, they sequestered us off one at a time, brought us in and cleared us.

Mr. HUGHES. When Mr. Haas talked with the DEA, were you present?

Mr. PALMER. No.

Mr. HUGHES. At no time?

Mr. PALMER. At various times—you mean at this particular point in time?

Mr. HUGHES. Yes.

Mr. PALMER. I was there for a part of his discussions and for some discussions I was not.

Mr. HUGHES. At any time had the DEA talked with you at McAllen Airport, did they ever say to you you were not authorized to make that flight to Colombia?

Mr. PALMER. Agent Wagner told me that we were not authorized to make that flight.

Mr. HUGHES. When was that?

Mr. PALMER. I don't recall whether it was before, after, in between or what, but he had said it to me.

Mr. HUGHES. I am talking about at the time, talking about there at the airport.

Mr. PALMER. He may have said it when we got back. I don't recall. You know, these details that you are asking me for were, in my mind right now, were very minor details to what took place. The reality of what took place was that dope was in Mexico and was going to come across, and they needed to do something about it. The rest was irrelevant at that point.

Mr. HUGHES. Mr. Palmer, if the DEA was angry with you over this trip and they displayed it in some way, you certainly, I would think, would remember. Now, if you had no conversation with them about it, that is one thing, but my question is, did you see any display of anger by the Drug Enforcement Administration over making this trip?

Mr. PALMER. I don't recall any displays of anger. As a matter of fact, I don't recall ever seeing a Drug Enforcement Administration agent lose his cool in that fashion. They arrest people.

Mr. HUGHES. Now, certainly at the very least when you arrived at McAllen Airport, at that point the DEA knew that they had 20,000 pounds of marijuana in Mexico that could potentially come across our border at any time. Is there any question about that?

Mr. PALMER. No.

Mr. HUGHES. Did DEA in any way participate in the plan to overfly the landing strip and land somewhere in the United States, the original plan, did they participate in that decision?

Mr. PALMER. Haas coordinated that with DEA. I don't know to what extent they participated in that, in that plan. I am assuming that they did.

Mr. HUGHES. How did you know which of the strips to go to? The traffickers had two strips. You weren't sure which one from your testimony. How did you find out which strip?

Mr. PALMER. They lit the one up that we were going to land at.

Mr. HUGHES. They identified it for you?

Mr. PALMER. They lit it up; it was pitch black.

Mr. HUGHES. Were they fairly close together, the two strips?

Mr. PALMER. They said that they were. I have never seen the second one. They said it was on the ranch of one of the traffickers about 8 miles away.

Mr. HUGHES. Now, did the whole plan include any arrests by the Drug Enforcement Administration, with some arrests at the completion of this trip, were arrests to be made by the DEA?

Mr. PALMER. When the load got into the United States, it was taken over by the DEA. The people that came into claim it were going to be arrested. That is my—

Mr. HUGHES. How were you going to lure the traffickers, which you knew were going to be in Mexico, how were you going to lure them to the United States and what was the plan?

Mr. PALMER. The plan was that we had to go use our strip in the United States because we had a bad engine. We had control of it up there, and we would be able to get the airplane prepared very readily, and we have got the load up here, come get it off our hands.

Mr. HUGHES. Where were you going to tell them the contraband was located?

Mr. PALMER. Wherever DEA put it.

Mr. HUGHES. Had you arranged for where you were going to lure the traffickers?

Mr. PALMER. DEA is not in the habit of telling their people that work for them, informants, every little detail of what it is that they do. Nor do I think it is a good idea.

Mr. HUGHES. How about if you couldn't lure them to the United States, what was the plan then?

Mr. PALMER. We took 20,000 pounds off the street, and we will get them. They would have come up for it, believe me.

Mr. HUGHES. But how about, how about this, if he did not come up for it, what was that plan?

Mr. PALMER. They would have. We would have proposed——

Mr. HUGHES. Before you left McAllen, were all these plans discussed with Mr. Wagner?

Mr. PALMER. Mr. Haas communicated with Mr. Wagner. Before we left McAllen?

Mr. HUGHES. Yes—before you left Miami, I am sorry.

Mr. PALMER. Like I say, Mr. Haas coordinated the communications with McAllen. We had a lot of different scenarios we had discussed throughout this thing. The plan that took place was not the plan we meant to have happen.

Mr. HUGHES. So Haas communicated and coordinated with DEA, and you did not. You had no coordination or consultation with DEA.

Mr. PALMER. I had plenty of coordination with the Colombians. I passed on my information to Haas and communicated it to DEA. It is difficult for us to try to—for two people to feed information to the same source, and it should come from one person. That way you are not going to have discrepancies that have to be worked out. Plus Haas and I were in two different places. There was too much to do.

Mr. HUGHES. What ever became of the indictment against you?

Mr. PALMER. My indictment in Detroit was dismissed.

Mr. HUGHES. So that you have basically served no time except for the 2 weeks you spent in custody after you were arrested?

Mr. PALMER. Three months in Colombia.

Mr. HUGHES. Well, that was by the Colombian authorities, was it not?

Mr. PALMER. In custody, yes.

Mr. HUGHES. Two months or 2 weeks in custody in the United States?

Mr. PALMER. Two weeks.

Mr. HUGHES. Two weeks.

Mr. PALMER. Mr. Chairman, if I may add to your remarks there, I would have much rather spent a year or so that this operation was going on in a nice, quiet jail cell than out doing what I was doing, but I was committed to it and I did it. The person arrested with me in Colombia also went to jail in the United States, he spent about 13 or 14 months in jail, and that is all. And he doesn't have to worry about his family or retribution or coming up here and testifying before Congress.

Mr. HUGHES. When you went to work for the law enforcement community, it was just a few weeks, as I recall, before the indictment was returned in Detroit?

Mr. PALMER. That is not correct.

Mr. HUGHES. When was it returned?

Mr. PALMER. We had already had a case completely done and adjudicated three months before I went over and debriefed.

Mr. HUGHES. Well, the debriefing, as I recall, took place in late May, early June.

Mr. PALMER. Right.

Mr. HUGHES. And the indictment was returned, as I recall, in late June; am I correct?

Mr. PALMER. I thought your question was when was my first exposure to law enforcement.

Mr. HUGHES. We are talking about this particular—the intruder case. Your debriefing took place in late May, I believe that was your testimony, or early June 1986; is that correct?

Mr. PALMER. Yes, it is.

Mr. HUGHES. Then the indictment was returned later that month?

Mr. PALMER. That is also correct.

Mr. HUGHES. Your testimony was that you told the Drug Enforcement Administration about the circumstances which gave rise to the indictment in Detroit before the indictment was returned?

Mr. PALMER. That is correct. That and a lot of other things.

Mr. HUGHES. Although I believe you testified that you did not tell them all the facts the first time and they discovered more about your background than they knew the first time you talked with them, but then you disclosed many more facts to them at the debriefing?

Mr. PALMER. The debriefing was a pretty thorough debriefing and in order to be fair, I have to say that I didn't say item by item, trip by trip what I did. I took the exposure that, in my mind, was the most, the most brave, and explained it to them, about my DC-6 exposure and quite a few of the smaller planes.

Mr. HUGHES. Now, when you went to work as a confidential informer for the DEA, did you suggest to them targets of opportunity, individuals that you had done business with previously, as potential targets?

Mr. PALMER. As part of my debriefing, I explained to them what my background was and whom the people were that I was associated with. It is their decision to make up their minds as to who the targets are.

Mr. HUGHES. Did you work with the Drug Enforcement Administration in attempting to develop information against those who you worked with previously?

Mr. PALMER. I did what I was asked to do.

Mr. HUGHES. My question was, did, in your work, in working as a confidential informer, did you develop information that would target individuals that you had previously worked with as traffickers?

Mr. PALMER. Yes.

Mr. HUGHES. And who by name?

Mr. PALMER. Well, Jerry Carroll, the majority of the people that I was associated with. The point became a moot point when I was indicted in Detroit, because along with me were indicted the majority of the people that I had been associated with.

Mr. HUGHES. Weren't they already under investigation or—

Mr. PALMER. Well, if they were indicted, I am sure they were under investigation.

Mr. HUGHES. See, I was under the impression, Mr. Palmer, that the people that you targeted were the people who were fairly new to you, that you had never met them before, and they were part of other trafficking organizations; am I incorrect?

Mr. PALMER. Yes.

Mr. HUGHES. And in what respect?

Mr. PALMER. I didn't target anyone. All I did was provide the window through which law enforcement could look at a very large and far-reaching cartel of both marijuana and cocaine, and I was the fabric and the window through which they looked into that organization. They made up their mind who they wanted to target and who they didn't. All I did was provide the information. I played my role.

Mr. KLEIBOEMER. If I may have a moment, Mr. Chairman?

[Witness confers with counsel.]

Mr. PALMER. Mr. Chairman, my counsel has pointed out that perhaps I have confused the issue a little bit. If I may refine the question or refine my answer just a little bit? During my debriefing in McAllen, I described my contacts in Colombia which were very limited, some of the people I was in jail with, and some of the people I had been associated with in my other smuggling days with the Vogel organization, et al.

However, subsequent to that, after I visited Colombia, there was a whole new cast of people that came across the horizon that I related information about, people that came to us seeking our services.

Mr. HUGHES. I see. Prior to the time you were arrested in Panama or in Colombia in 1985, had you worked as a confidential informer for any law enforcement agencies?

Mr. PALMER. No.

Mr. HUGHES. Any intelligence agencies?

Mr. PALMER. No.

Mr. HUGHES. The U.S. Government or any foreign government?

Mr. PALMER. No.

Mr. McNULTY. Mr. Chairman, I appreciate your giving me the chance. I only have one question about Intruder and the final results of it. In the interest of time I will just ask you that. For the record, do you have a memory right now of what the final results were in terms of number of arrests in the Intruder operation? That

is what the Government received in terms of accomplishments in that particular case?

Mr. PALMER. Well, to begin with, the drugs that were seized in the United States was in the neighborhood of 150,000 pounds, 1,400 pounds of cocaine as a direct result. During the Intruder operation, we were able to identify drug catches in Colombia that resulted in the seizure in Colombia of over 300,000 pounds of marijuana and close to 400 kilos of cocaine.

The arrest that took place in the United States, I don't know how many people there were. I know this, that out of the Intruder operation sprouted a number of other investigations, some of which I have knowledge of, and some of which I don't, but I don't think the record is a proper place for them.

Mr. McNULTY. Besides the organization that was involved in the arrests, let me ask you this question, with your experience in this part of the world, how would you rate the size of this particular organization that was brought down, so to speak, through Operation Intruder?

Mr. PALMER. The overall size I can't speak to, because the roots of it and tentacles apparently extend further than the people brought down in the first wave of indictments. I might add, though, Paul, to your previous question, that as a result of the investigation, actually there were no trials. Everyone plead guilty, and I guess the majority of them are incarcerated at this time.

However, I would have to say that I have never seen in the days that I have been involved in smuggling and the people I have met, I have never met anyone as organized as this group was, or as professional. Never. As a matter of fact, I was quite shocked by the reach that these people had in not just their government down there, but even in this government up here.

As a matter of fact, I am totally shocked by the fact that one of the people that—whose name I heard mentioned down there, sits as a staff member of your committee. I am speaking about your investigator, Mr. Verdolin. I am shocked.

Mr. McNULTY. I am sorry, I am not familiar with what you are saying.

Mr. PALMER. I said I am amazed at how far-reaching the tentacles of the cartel that we were involved with down there reached, the different governments that they are able to have influence over, the murders that they are able to commit and in fact, I am amazed to see that a member of your staff was actually a name that I had heard mentioned on the lips of the Colombians, or part of the trafficking group down there in Colombia. I am shocked, because I am sure that Mr. Verdolin is doing his best for your committee, but I am shocked to see him here.

Mr. HUGHES. Why? Why?

Mr. PALMER. To my knowledge—

Mr. HUGHES. Do you have evidence that Mr. Verdolin has done something improper?

Mr. PALMER. To my knowledge, he has been on the payroll of the cocaine cartel prior to going to work for you.

Mr. HUGHES. Mr. Verdolin is a drug enforcement, a former Drug Enforcement Administration agent. You are suggesting that you have knowledge of that?

Mr. PALMER. I am saying that I heard his name mentioned down there, and if I heard his name mentioned down there——

Mr. HUGHES. Who mentioned it?

Mr. PALMER. Mr. Morales did, as did Mr. Dangond.

Mr. HUGHES. Mr. Morales?

Mr. PALMER. Mr. Oswald Morales and Mr. Rafael Dangond. I might also note that he apparently is the person responsible for the affidavit that Mr. Cerna swore to, and later recanted.

Mr. HUGHES. Mr. Cerna told you that?

Mr. PALMER. I have a copy of it here.

Mr. HUGHES. Mr. Palmer, when did you have a conversation with the trafficker, where Mr. Verdolin was mentioned?

Mr. PALMER. I heard his name back very early on, in passing.

Mr. HUGHES. When did you learn that Mr. Verdolin worked for this subcommittee as a staff person?

Mr. PALMER. Only recently. I had heard his name before. I never met the gentleman before. I don't mean to say that he is involved in anything improper. I just want to point out that it is certainly a very strange contradiction, and this affidavit that has been constructed I find very strange.

Mr. HUGHES. Well, Mr. Palmer, I will tell you what we are going to do. Let's—when did this conversation take place?

Mr. PALMER. The conversation that you are referring to is which one?

Mr. HUGHES. Conversations about Mr. Verdolin.

Mr. PALMER. I said his name was mentioned in passing.

Mr. HUGHES. And when was that that it was mentioned in passing?

Mr. PALMER. During the Intruder investigation down there. He was mentioned along with a lot of other people that had been mentioned. They brag about everyone. One of the people they bragged about was the son of President de la Madrid of Mexico.

Mr. HUGHES. We are talking about in 1986?

Mr. PALMER. Late 1986 or early 1987.

Mr. HUGHES. And did you bring that to the attention of the law enforcement community?

Mr. PALMER. It was just another name. It is just another name. That is all. We had hundreds of names.

Mr. HUGHES. Somebody was just dropping names, or not, of DEA agents?

Mr. PALMER. That could very well be. But I find it strange that he worked for Cerna and Cerna didn't go to court, he pled guilty to cocaine trafficking. He worked for Mr. Rodriguez-Gocha, the Crown Prince, the poster boy of Fortune Magazine.

Mr. HUGHES. Well, Mr. Palmer, it is interesting that for the first time today, you are dropping a number of names that you have heard are either connected with drug trafficking or used——

Mr. PALMER. I am not dropping any names, I am just answering a question.

Mr. HUGHES. But you never volunteered this information before to this committee when you talked with staff.

Mr. PALMER. I don't know how long Mr. Verdolin has been working for your staff, but I just met him today.

Mr. HUGHES. Well, you don't know anything about Mr. Verdolin, do you?

Mr. PALMER. I only know that he is supposedly the author of this affidavit.

Mr. HUGHES. Do you know him?

Mr. PALMER. No, I don't know him.

Mr. HUGHES. Did you ever meet him before?

Mr. PALMER. Today.

Mr. HUGHES. Do you know if it is the same Verdolin? What makes you think that it is——

Mr. PALMER. No, I don't know, it is very possible that it is not. I said that. It is very possible that Mr. Verdolin is not the same Verdolin. Maybe it is another one. All I know is that I have heard his name mentioned before by Colombians. I know that he worked, now, I know that he worked for Mr. Cerna. I also know that Mr. Cerna says that he is the author of this affidavit.

Mr. HUGHES. How do you know it is the same Verdolin; it is a fairly common name in South America, isn't it?

Mr. PALMER. How do I know it is the same Verdolin that authored this document?

Mr. HUGHES. Isn't it a fairly common name in South America?

Mr. PALMER. I have never heard it mentioned before. It may well be.

Mr. HUGHES. What makes you think it is the same Verdolin that is working for this committee? When did you make up your mind that that might be the same Verdolin?

Mr. PALMER. The Cerna affidavit, are you talking about that?

Mr. HUGHES. No, the name that was dropped by the Colombian traffickers.

Mr. PALMER. I have just explained that. I heard the name, it jogged my memory, and I said, wait a minute, I have heard that name before.

Mr. HUGHES. You heard the name Verdolin?

Mr. PALMER. Enrico Verdolin.

Mr. HUGHES. Well, Enrico Verdolin is a fairly common name, isn't it?

Mr. PALMER. Mr. Chairman, it is very possible that we are talking about two different people. I don't mean to assert anything that is not there.

Mr. HUGHES. Mr. Palmer, Mr. Palmer, first of all, you made a pretty serious charge. You suggested that a member of this staff might be the same person that some trafficker, some time ago, dropped in passing as somebody that was perhaps connected with the traffickers. Now, what evidence do you have to suggest that, beside some suggestion that you heard his name mentioned some time?

You are not even sure if it is the same name.

Mr. PALMER. Is there any question as to whether or not he is the author of this affidavit?

Mr. HUGHES. What does that have to do with it?

Mr. PALMER. Plenty, the affidavit was prepared for Mr. Alex Cerna. And he worked for the cocaine cartel.

Mr. HUGHES. How does the affidavit suggest that that is the same Verdolin that was dropped by way of just name-dropping

when you were in Colombia talking to traffickers in passing? What evidence do you have to suggest that they are the same people?

Mr. PALMER. I didn't assert that. I said it might have been.

Mr. HUGHES. Well, I find—I find your conduct to be absolutely reprehensible. To suggest that—we don't have time to pursue the balance of the questions that I want to pursue. We will pursue this again. I am going to ask you to return. You are still under subpoena. We will reconvene Wednesday morning at 10. The subcommittee stands adjourned.

[Whereupon, at 4:15 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Wednesday, September 28, 1988.]

[SUBCOMMITTEE NOTE.—Subcommittee reconvened at 10:15 a.m., Thursday, September 29, 1988.]

ENFORCEMENT OF NARCOTICS, FIREARMS, AND MONEY LAUNDERING LAWS

THURSDAY, SEPTEMBER 29, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes, (chairman of the subcommittee), presiding.

Present: Representatives Mazzoli, Staggers, McCollum, and Gekas.

Staff present: Hayden W. Gregory, counsel; Paul J. McNulty, associate counsel; James Dahl, investigator; Enrico Verdolin, investigator; and Phyllis Henderson, clerk.

Mr. HUGHES. The Subcommittee on Crime will come to order.

I wonder if our four witnesses would come forward as a panel: Marion Hambrick, Special Agent in Charge of the Drug Enforcement Administration, Houston, TX; Ken Miley, the Assistant Special Agent in Charge, Drug Enforcement Administration, McAllen, TX; Luis Saldana, Special Agent, Drug Enforcement Administration, McAllen, TX; and John Wagner, Special Agent, Drug Enforcement Administration, formerly McAllen, TX, now presently stationed at headquarters. Come forward, if you would, to the witness table.

The Subcommittee on Crime has received a request that this hearing be permitted to be covered in whole or in part by television broadcast, radio broadcast, still photography, and by other similar methods. The Chair's normal practice is to permit it unless there is objection. Is there objection?

[No response.]

Mr. HUGHES. Hearing none, such coverage will be permitted.

[Pause.]

Mr. HUGHES. Mr. Hambrick, Mr. Miley, Mr. Saldana, and Mr. Wagner, welcome.

Pursuant to clause 1 of rule 11 and clause 1 of rule 10 of the Rules of the House of Representatives, this is an oversight investigation of enforcement of laws relating to narcotics, firearms, and money laundering. Pursuant to clause 2 of rule 11 of the Rules of the House of Representatives, copies of the rules of the Committee on the Judiciary and clause 2 of rule 11 of the House of Representatives were made available to the witnesses and are available at counsel table. Do you have copies of the rules?

(157)

Mr. HAMBRICK. Yes, sir. We do.

Mr. HUGHES. I see. You have right to counsel to assist you in the course of this morning's proceedings. Are you accompanied by counsel?

Mr. HAMBRICK. No, sir, we are not.

Mr. HUGHES. I see. Is it your desire to have counsel present?

Mr. HAMBRICK. No, sir.

Mr. HUGHES. I wonder if you will all stand. I am going to put you under oath. Would you all stand behind the table there? That is a Bible on the table right in front of you. I wonder if you will hold that, and each of you put your right hand up, your left hand on the Bible, if you could. I know it is going to be difficult.

[Witnesses sworn.]

Mr. HUGHES. We generally operate under the 5-minute rule around here where members take turns questioning witnesses. That is very difficult to get the testimony out in a case as complex as this. Mr. McCollum and I have agreed that counsel—both Mr. Gregory, the chief counsel, and Mr. McNulty, the minority counsel, Republican counsel—will elicit the basic testimony. Then Mr. McCollum, myself and others will get to the other areas where we have some concerns.

Mr. Gregory, you may proceed.

Mr. GREGORY. Thank you, Mr. Chairman.

As the chairman has indicated, he and the ranking minority member would like for us to lay a factual ground, basis, for further questioning. In that regard, what I would like to do is, as quickly as possible, take you through the Intruder investigation in chronological order. I think for starters it would be useful if we could establish the role or function that each of you played in that, and then I would like to address questions, either to individual members based on the role you played or perhaps question whomever you decide is the best to answer it.

In that regard, could each of you indicate your role in the investigation, starting with you, Mr. Hambrick.

Mr. HAMBRICK. Well, I'm the special agent in charge of the Houston Field Division of the Drug Enforcement Administration. I am the overall supervisor for DEA of that area of the country.

To my immediate right is Ken Miley. Ken Miley is the assistant special agent in charge of the Drug Enforcement Administration with particular responsibility for that area around the border in McAllen, Texas.

To my left is John Wagner, who is presently a supervisory special agent in Washington, who at the time of this investigation was one of the group supervisors in the McAllen District office in DEA.

To his left is Rick Saldana, who is a special agent assigned to the McAllen office of DEA who participated in the investigation.

Mr. Chairman, I submitted an opening statement.

Mr. HUGHES. Mr. Hambrick, you are recognized for the purpose of making your opening statement.

TESTIMONY OF MARION HAMBRICK, SPECIAL AGENT IN CHARGE OF THE DRUG ENFORCEMENT ADMINISTRATION, HOUSTON, TX; KEN MILEY, ASSISTANT SPECIAL AGENT IN CHARGE, DRUG ENFORCEMENT ADMINISTRATION, McALLEN, TX; LUIS SALDANA, SPECIAL AGENT, DRUG ENFORCEMENT ADMINISTRATION, McALLEN, TX; AND JOHN WAGNER, SPECIAL AGENT, DRUG ENFORCEMENT ADMINISTRATION (FORMERLY McALLEN, TX), PRESENTLY WASHINGTON, DC

Mr. HAMBRICK. Thank you.

What I would like to comment on is the statement has been submitted for the record. I would like to kind of paraphrase that we in DEA feel that Operation Intruder was probably one of the best all-around investigations into marijuana and marijuana trafficking that had been performed by DEA at this point in time.

It was unique in that the undercover agents, with the utilization of some assets, were able to deal directly with the Colombian suppliers and the distributors in the United States.

As has been seen by the report that has been made available to the subcommittee, we were able to use ocean-going vessels, undercover meetings, and reverse undercover techniques that put us right into the middle of the organization.

The arrests that occurred at the culmination of the investigation and the initial culmination of the investigation were good. They were all documented violators. They at that time were major marijuana distributors.

We feel that it was one of the better investigations that we had.
[The statement of Mr. Hambrick follows:]

Statement
of
MARION W. HAMBRICK
Special Agent in Charge
Houston Field Division
Drug Enforcement Administration

before
the
Subcommittee on Crime
Committee on the Judiciary
U.S. House of Representatives

concerning

OPERATION INTRUDER

on

September 14, 1988

Chairman Hughes, members of the subcommittee. As part of this subcommittee's examination of illegal trafficking of firearms and narcotics, I am pleased to be here today to describe the Drug Enforcement Administration's Operation Intruder.

DEA had identified a Colombian organization that we believed had been in operation for about 15 years and was distributing more than 600,000 pounds of marijuana in the United States annually. This was an investigation that combined traditional undercover roles and reverse undercover techniques to dismantle an organization that smuggled marijuana and cocaine from Colombia to the United States. The first goal of Operation Intruder was to negotiate for 500,000 pounds of marijuana and a large quantity of cocaine. We also wanted to identify real property, investments, and other assets that would be subject to seizure and forfeiture.

DEA undercover agents entered into an agreement with this cartel to provide them with the full range of trafficking services in exchange for \$5 million. Specifically, the agents were contracted to: transport approximately 500,000 pounds of marijuana and 10,000 pounds of cocaine from Colombia to Port Isabel, Texas; unload the vessels; warehouse the marijuana and cocaine; control distribution to the brokers; collect the monies; and, ultimately, deliver the marijuana and cocaine to the recipients. It was DEA's intention to arrest the defendants once they received the drugs.

At the outset, the violators provided the undercover agents with approximately \$1.2 million to finance this operation. DEA obtained an exemption from the Attorney General as authorized under P.L. 99-500 to use the trafficker-provided funds for this operation.

It took over a year before the plan came together. During this time, there was considerable negotiation, and there were several attempts to send an ocean-going vessel to the north coast of Colombia to transport the marijuana and the cocaine.

Ultimately, a vessel was dispatched, and it was loaded with 128,500 pounds of marijuana during late July 1987. The vessel sailed toward the Turneffe Islands of Belize where the Colombian crew, who were violators, was replaced by a crew who were, for the most part, undercover DEA agents. The vessel then continued for seven days to Port Isabel, where, on August 5th, it docked and unloaded all of the marijuana. The marijuana, which was packed into 80 to 120 pound bales, was then loaded onto trucks. These vehicles then went to a warehouse guarded by DEA for later distribution to broker/buyer organizations throughout the United States.

DEA learned that when the vessel was originally loaded, the Colombians had worked at only one on-loading site. In fact, there were several others that the Colombian crew skipped prior to sailing north.

As soon as DEA learned of the 200,000 pounds left behind in Colombia, DEA agents from McAllen and the cooperating individuals attempted to negotiate for delivery of this marijuana. However, they were unsuccessful.

During the next three weeks, undercover negotiations continued with violators from across the country to deliver original 128,500 pound load. Ultimately, the agents delivered the marijuana in lots ranging from 15,000 to 50,000 pounds to Atlanta, Denver, and West Palm Beach, and they were promised payments of one-half to one million dollars for each delivery. DEA agents arrested the violators before they could sell any of this marijuana.

In early September, the violators requested that a DC 6 go to Colombia to pick up a large load and return the next day to Detroit. A crew of cooperating individuals operating under DEA 's direction made that flight and went to Detroit with 18,000 pounds of marijuana and 1,300 pounds of cocaine on board. The trafficker directing the Detroit operation intended to sell the marijuana in Detroit, but move the cocaine to New York City

Initially, seven suppliers in Colombia were involved. Immediately after the delivery in mid-September 1987, the undercover agents attempted to meet these violators in Panama to "pay" them for the 128,500 pounds of marijuana they had provided in late July. One violator showed up and he was expelled to the

United States. Another violator flew directly from Colombia to Miami, and he was arrested. The other five defendants are fugitives.

Throughout the course of this significant year-long investigation, DEA agents arrested a total of 32 defendants in Miami, West Palm Beach, Atlanta, Detroit, Denver, and McAllen. Approximately 150,000 pounds of marijuana and 1,300 pounds of cocaine were seized in these locations. We seized over \$2.5 million in assets, including two farms, three homes, 24 vehicles, and cash from these violators.

Traditional undercover investigative techniques, coupled with DEA's ability to spend trafficker-provided assets, were the major contributing factors in the success of this "foreign supplier/domestic buyer" organization's demise. DEA's ability to coordinate and communicate regularly on an international and time-sensitive basis also greatly contributed to the success of this complicated investigation.

We received unqualified cooperation from every state police agency that we worked with, as well from the U.S. Customs Service, the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Bureau of Investigation. Even though numerous agencies were involved, during the year that this case was developing, security was unbroken. We are proud of this combined effort and the results that we were able to achieve.

Mr. Chairman, that concludes my summary of Operation Intruder and I will be pleased to answer any questions that you or members of the subcommittee may have.

Mr. HUGHES. Thank you, Mr. Hambrick, Counsel.

Mr. GREGORY. Let me start with you, Mr. Saldana. I take it you were a field agent working on the Intruder case; is that correct?

Mr. SALDANA. Yes, sir, that is correct.

Mr. GREGORY. What was your first exposure to the facts or personnel, other than, of course, DEA personnel, involved in that case?

Mr. SALDANA. Well, if you are referring to Mike Palmer?

Mr. GREGORY. If that was your first contact, yes, sir.

Mr. SALDANA. That was in early June of 1986.

Mr. GREGORY. Would you tell the subcommittee what happened then? Just in your own narrative, describe what happened.

Mr. SALDANA. Yes, sir. Well, at that time, Mr. Haas, Mr. Joe Haas and Mr. Palmer came to the office stating that they had some information that maybe could be developed into a subsequent seizure. After these initial debriefings, of course, Mr. Wagner here was also present. At these initial debriefings is where I first met Mike Palmer.

Mr. GREGORY. So you were present at that initial debriefing also, Mr. Wagner? Is that correct?

Mr. WAGNER. Yes, I was.

Mr. GREGORY. And there was one the following day as well? Or at least in the same general time period?

Mr. WAGNER. Periodically, I would step in during the debriefing of Palmer, yes.

Mr. GREGORY. Mr. Saldana, were you at some point assigned as the control agent for either or both of these individuals?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. For both of them?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. And when did that occur?

Mr. SALDANA. That was in June 1986.

Mr. GREGORY. Was this assignment made by Mr. Wagner, or how did you receive it?

Mr. SALDANA. Yes, that was assigned by Mr. Wagner.

Mr. GREGORY. Was that made at the time of the debriefing?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. So you were the agent responsible for writing up the debriefing, DEA-6?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. Now, you said Haas and Palmer. Just in a technical sense, were you treating each of them as confidential informants, registering them, numbering them and so forth? Or was it one or the other in that initial debriefing?

Mr. SALDANA. No. After the debriefing, it was just a matter of registering them or activating them as informants.

Mr. GREGORY. Did you activate both of them at that time?

Mr. SALDANA. I believe Mr. Haas had been activated already. At that time, I activated Mr. Palmer.

Mr. GREGORY. What I am getting at, just in the interest of time let me tell you, and perhaps that will help us. We understood from Mr. Palmer that Mr. Haas brought him to DEA to introduce him because he might have useful information; is that correct?

Mr. SALDANA. That is correct.

Mr. GREGORY. That is why I was asking if you were treating both of them, or was it Haas, whom I understand previously having worked with you, was introducing you to another potential—

Mr. HAMBRICK. I think a point of clarification on how cooperating individuals are documented would help the subcommittee.

You can document an individual as a cooperating individual, but then when they are not actively being used, they may be closed out for recordkeeping purposes. And they may be reactivated when they came back in at some later date with additional information. In this case, Mr. Haas was already an active cooperating individual with DEA.

Mr. GREGORY. Fine. But, Mr. Wagner or Mr. Saldana, whomever chooses to answer, in terms of the information that was being offered on that initial debriefing, was that Palmer information with Haas as the introducing person, or were both of them contributing to it?

Mr. WAGNER. I can answer that. Prior to June of 1986, I had conversations with Mr. Haas, and at that time, he told me that he had a source of information located in the Miami area and that he would like to bring him to McAllen so that we could talk to him. In other words, Mr. Haas recruited Mr. Palmer to be an informant for DEA.

At that time, they came to the McAllen office, and that is when we had our initial debriefing of Mr. Palmer.

Mr. GREGORY. What did Mr. Palmer suggest that he might be able to help you with on that first meeting?

Mr. WAGNER. Mr. Palmer offered his willingness and desire to cooperate with the Government based on conversations that he had with Mr. Haas. He felt that he could achieve what he wanted to achieve by coming to DEA in McAllen, in particular, and he offered several days of interviews, the feeling-out time. We would feel him out; he would feel us out, and he would provide us with whatever he knew in regards to the drug traffic.

Mr. GREGORY. Did he use any name other than Mike Palmer, other than his true name when he first came to you?

Mr. WAGNER. No. He used Michael Palmer.

Mr. GREGORY. Did he indicate that he had used other names in other activities?

Mr. WAGNER. He did later on, but I do not recall if he did at that time.

Mr. GREGORY. When did you first hear the name Mike Harris?

Mr. WAGNER. I do not recall.

Mr. GREGORY. Mr. Saldana.

Mr. SALDANA. I do not recall when was the first time I heard that.

Mr. GREGORY. Did he tell you about his arrest in Colombia?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. What did he tell you?

Mr. SALDANA. He initially said it was an arrest based on airspace, Colombian airspace violations. He said that bad weather had forced him down on a strip, and the initial charge was airspace violations of the Colombian territory. He also said that a quantity of drugs had been found near the airstrip at that time, and drug charges were added.

Mr. GREGORY. So he did not tell you that he was there to pick up drugs?

Mr. SALDANA. No, sir.

Mr. HAMBRICK. Again, in the official meeting, if I understand this correctly—

Mr. HUGHES. Mr. Hambrick, were you present?

Mr. HAMBRICK. Sir?

Mr. HUGHES. Were you present?

Mr. HAMBRICK. No, sir.

Mr. HUGHES. Why don't you let them answer the questions, and then we will get to the other testimony.

Mr. SALDANA. That was the very initial debriefing.

Mr. GREGORY. But it was not so initial that he did not lie to you about what happened in Colombia, was it? It was not so perfunctory and so limited that—he did lie to you, didn't he, about what took place in Colombia?

Mr. SALDANA. Well, he did say that he had been arrested.

Mr. GREGORY. Let me put it another way in the interest of time, Mr. Saldana. He tells us he lied to you. Now, is that true or not?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. And those are his words: "I lied to DEA about what happened down there."

Mr. SALDANA. Yes, sir.

Mr. GREGORY. At that time, was it contemplated, this large 500,000-pound or thereabouts shipment—did he say the guys down there have something like this in mind?

Mr. SALDANA. Not during the initial debriefing. That was later on in August.

Mr. GREGORY. If you can be just a little bit more specific, what did he say that he might be able to help you develop by way of cases?

Mr. SALDANA. Well, he said he had met certain people there in jail while he was in Colombia, and that these people had approached him as to future contact for smuggling, for a drug run. He said that these people were willing or wanted to bring in 500,000 pounds of cocaine in a DC-6.

Mr. GREGORY. They wanted to bring in cocaine in a DC-6?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. Was there a destination already selected?

Mr. SALDANA. No, not at all.

Mr. GREGORY. Just somewhere in the United States?

Mr. SALDANA. According to Mr. Palmer, those were the initial conversations between himself and the Colombian people.

Mr. GREGORY. Did he give you names of people that he was dealing with?

Mr. SALDANA. Yes, he did. I believe at that time he said Mr. Solano.

Mr. GREGORY. Anyone else? Do you remember if he mentioned a Mr. Morales, for example, Oswaldo Morales?

Mr. SALDANA. Yes, he did. He mentioned Mr. Morales and also Mr. Solano.

Mr. GREGORY. So you have an individual who comes in and he gives you some names and says they are interested in importing co-

caine into the United States. I take it you would run those names through NADIS, then; is that correct?

Mr. SALDANA. That is correct.

Mr. GREGORY. Without giving specifics, but in terms of him, did you get hits? Did you show these people to be suspected traffickers already?

Mr. SALDANA. On some, yes; on some, no.

Mr. GREGORY. You mentioned two names. Do you recall if you got hits on those?

Mr. SALDANA. I know at least on one; on Mr. Morales, I got a hit. I do not recall any hits on Mr. Solano. Could have been.

Mr. GREGORY. Now, according to the DEA-6 that you wrote up, there was an interview on the 5th which you basically have described, and then the following day there was another debriefing which seemed to relate primarily to a Michael Vogel. Do you recall that?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. Again, as briefly as you can, as succinctly as you can, tell us what was going on there. What was Palmer telling you about Vogel?

Mr. SALDANA. Mr. Palmer said that he had been hired by Mr. Vogel—Mr. Vogel's organization—as a pilot to fly some drug loads from Colombia to the United States, to the Michigan area.

Mr. GREGORY. Now, was he offering this as significant new information in the sense of helping you initiate a case?

Maybe my question is not clear. Did he say, "I used to work for, with a person by the name of Mike Vogel, and he is a drug trafficker, and I can help you make a case against him"? I mean, that would be the normal thing, I would expect, but tell me if that is what was going on.

Mr. SALDANA. I do not recall if he said he could make a case against him. I know he briefly talked about his past, his past deals that he had made, his past involvement with drugs.

Mr. GREGORY. Well, without getting to the question of his role in making the case, the rest of my question was whether he was suggesting that, you know, here is someone who has not been brought to justice and needs to be, and perhaps I can give information that will help.

Mr. SALDANA. I really do not recall if he said, "Yes, I can make a case against Mr. Vogel."

Mr. GREGORY. Were you present at that debriefing also, Mr. Wagner?

Mr. WAGNER. No, sir. Normally what we do, we just ask the sources of information what do you know and who do you know. We pick their mind.

Mr. GREGORY. Well, did he bring up Vogel's name, or was that someone that you were interested in and you asked him about?

Mr. SALDANA. No, he brought it up.

Mr. GREGORY. And you wrote up a separate DEA-6 on Vogel?

Mr. SALDANA. That is correct.

Mr. GREGORY. Why did you choose to do that? You do not write up a 6 every time a name is mentioned. Why did you decide this was worthy of a separate 6?

Mr. SALDANA. Well, I thought that was a different organization here in the United States as opposed to the Colombian people he had talked about the previous day. So I chose to open what we call a general file.

Mr. GREGORY. Did he tell you that Vogel had been arrested already two weeks earlier by the FBI in Detroit?

Mr. SALDANA. No, sir.

Mr. GREGORY. So the information that was given to you is that this is not technically a fugitive, someone who has not been arrested or indicted or anything like that? That was new information, you understood?

Mr. SALDANA. That is correct.

Mr. GREGORY. Did you subsequently learn that, in fact, Vogel had already been arrested?

Mr. SALDANA. Later on, yes.

Mr. GREGORY. How did you learn of that?

Mr. SALDANA. I believe that came from Mr. Wagner. He said that several people in the Michigan area had been indicted.

Mr. GREGORY. Did Palmer tell you on that initial couple of meetings, or however many there were in early June, that he was fearful of being indicted himself?

Mr. SALDANA. No, sir.

Mr. GREGORY. Did he tell you that he was under any jeopardy or scrutiny or anything like that?

Mr. SALDANA. I do not recall anything like that, sir.

Mr. GREGORY. Did he ever bring such information to you? Obviously, you learned of it, but the question is: Did you learn it from him or did you learn—

Mr. SALDANA. No, I learned that from Mr. Wagner.

Mr. GREGORY. You learned of his indictment from Mr. Wagner?

Mr. SALDANA. That is correct.

Mr. GREGORY. When did you learn it? Mr. Wagner, when did you learn of the indictment of Michael Palmer in Detroit?

Mr. WAGNER. The 23rd of June 1986.

Mr. GREGORY. And how did you learn, sir?

Mr. WAGNER. I was informed Mr. Palmer had been arrested in Miami.

Mr. GREGORY. Who told you?

Mr. WAGNER. I believe I made inquiries and—

Mr. GREGORY. In other words, it was someone, I take it, in law enforcement and not Mr. Palmer himself?

Mr. WAGNER. Well, I began inquiries on June 20 on a Friday. I called our office in Detroit to learn if they knew of a Mr. Vogel. I also attempted to contact the FBI office in McAllen. They were gone for the day, and I got a recording. Our office in Detroit said that they had no knowledge of Mr. Vogel, but they felt that the case was not a DEA case, that it was a case being run by the FBI. And that prompted me to call the McAllen FBI office late Friday evening on the 20th.

Mr. GREGORY. Now, you said Vogel a minute ago. My question went to the arrest of Palmer. At this point, I was asking about the arrest of Palmer.

Mr. WAGNER. Then Palmer was arrested the following Monday, on the 23d.

Mr. GREGORY. So would your answer be the same when you learned of the arrest of Palmer? I just want to make sure we understand one another. You made reference to something about Vogel, and I had earlier asked about Vogel but I had shifted my question to the arrest of Palmer.

Mr. WAGNER. Palmer, I had conversations with Palmer on Friday the 20th, and he said, "I think I may have trouble in Detroit."

Mr. GREGORY. I see. So you first learned from Palmer that an indictment was pending; is that correct?

Mr. WAGNER. Just that he had trouble. I knew of no indictment.

Mr. GREGORY. But nobody else, had you learned from any other source that that might be pending?

Mr. WAGNER. I believe I contacted our office again in Detroit, and at that time, I had a conversation with our agents there. They informed me that Palmer had been arrested in Miami. That is how I learned of his arrest and the indictment.

Mr. GREGORY. When did you first talk to Mr. Palmer, either of you, after his arrest?

Mr. WAGNER. I believe I talked to him some time during that week of his arrest. I talked to several FBI agents in Detroit, and I also talked to Mr. Palmer. He called me by phone, I believe, from Miami, from where he was being held.

Mr. GREGORY. Did he ask you to give any assistance?

Mr. WAGNER. Well, he called me to let me know that he obviously could not continue working for us, that he was in jail. I said that I already knew that he was in jail.

Mr. GREGORY. So I take it from that your answer is no, he did not ask you to do anything? You just anticipated that he was going to be on the shelf?

Mr. WAGNER. I do not know what he anticipated. I initiated that action myself by contacting the FBI to find out exactly how serious the charges were against Palmer, and if they anticipated his being released soon. I also talked to the assistant U.S. attorney in Detroit seeking his advice as to whether we could continue using Palmer or not.

Mr. GREGORY. So based on those inquiries, what did you decide to do?

Mr. WAGNER. I could do nothing. I would have to wait until Mr. Palmer was released from jail on bond.

Mr. GREGORY. So if he was released on bond, you were prepared to continue to use him as a CI?

Mr. WAGNER. I had to seek the concurrence of the prosecuting attorney in Detroit.

Mr. GREGORY. But assuming there was concurrence there——

Mr. WAGNER. That was given.

Mr. GREGORY. What was your assessment at that point of what he had given you so far? Did it look promising?

Mr. WAGNER. It did. It looked promising.

Mr. GREGORY. Apparently enough at least that you were interested in pursuing it further?

Mr. WAGNER. It would take a lot more work. It had to be pursued fully to really make a competent evaluation.

Mr. GREGORY. Now, this is late June. By late June, what are the possibilities? You say it would take some work. Are we still talking this cocaine deal, or has it shifted to something else? Are we talking Vogel?

Mr. WAGNER. He gave us a variety of information of a variety of individuals that he knew, and we would have to run extensive checks on these through various indices to determine who they were and what their stature was in the drug trade, and attempt to evaluate the information to determine if Mr. Palmer could be of use to us.

Mr. GREGORY. So would it be fair to characterize at that point there were a lot of possibilities but nothing really specific, but, you know, a lot of things that needed to be checked out further?

Mr. WAGNER. Of course.

Mr. GREGORY. There came a time when he traveled to Colombia and from there to Panama in connection with this operation. Could either of you tell us what the circumstances leading up to that were and what was the purpose of that trip?

Mr. WAGNER. Well, that trip, I believe, was on July 29, 1986, and we directed him to pursue some leads that he had in Colombia, and to determine the extent of his offer that he had been given by several violators in Colombia to traffic in cocaine and marijuana, specifically to transport it into the United States. We sent him down there to further gain information of who these people were and other members of the organization so we could fully identify it and see what we had.

So it was an exploratory trip on his part.

Mr. GREGORY. Now, to your knowledge, had he been back to Colombia since he was released from his arrest the year before, at that time? In other words, I think it was July or August he was released in 1985, and we are now up to July of 1986. To your knowledge, had he been back to Colombia in that intervening time?

Mr. WAGNER. Since his arrest, I do not know.

Mr. GREGORY. How was he communicating? Was it by phone? Were they up here? How did he communicate with his contacts that he was apparently in contact with?

Mr. WAGNER. By phone. He used the phone extensively. I seriously doubt—I really do not know if he traveled to Colombia. I seriously doubt, following his arrest there, that he would return at that time. I do not know.

Mr. GREGORY. He identified Oswaldo Morales as his primary, I think perhaps exclusive point of contact up to that point. Is that your understanding as well?

Mr. WAGNER. There were two points of contact that I am aware of. One was Joaquin Solano, and the other was Oswaldo Morales.

Mr. GREGORY. Now, based on what you learned from him and from your own information systems, were they themselves sufficiently attractive as targets that you were pursuing for them, or were they only part of something else?

Mr. WAGNER. As an entity in themselves, they would be considered a target of opportunity. Until we further learned how extensive their role was in the traffic and what organizations that were a part of, they remained somewhat attractive. But it was prema-

ture to make any decisions on whether to pursue anyone individually.

Mr. GREGORY. So would it be accurate to characterize the trip down there as a further exploratory trip, or by now had it taken some particular form, what you were looking at?

Mr. WAGNER. We had focused on Morales. He seemed to be the one to focus on and, through him, gain access to other individuals if we could.

Mr. GREGORY. Well, for example, even as far as the drugs involved, you mentioned in your answer I think cocaine and/or marijuana. Had the discussion focused on one or the other?

Mr. WAGNER. No.

Mr. GREGORY. In other words, the contacts were able to supply either or both?

Mr. WAGNER. Usually is the case, yes.

Mr. GREGORY. Now, up until this point, Palmer had been exclusively involved in aviation smuggling. Are we still talking aviation, or are we talking marine?

Mr. WAGNER. Neither. We were——

Mr. GREGORY. We have not—I am sorry. Go ahead.

Mr. WAGNER. His entree was as a pilot to the Colombians. That was his entree. That is his bailiwick, and I imagine that is what he sold to the Colombians.

Mr. GREGORY. Now, up until this point, had anyone in DEA had any contact with any of the traffickers?

Mr. WAGNER. No, sir.

Mr. GREGORY. So your sole point of contact is Palmer?

Mr. WAGNER. Of course.

Mr. GREGORY. Correct?

Mr. WAGNER. We had no reason to be in contact with the Colombians at that point, no reason to be—we had no role to play. There was no scenario; no plans had been made at that time. This was strictly intelligence-gathering at this point.

Mr. GREGORY. How were you communicating with Palmer in this period? Are there meetings? Is it all phone calls? Both? I mean after the initial——

Mr. WAGNER. No. At times, we were debriefing him by phone while he was still incarcerated in the Miami correctional institution. That was for a period of ten days or so. He would tell us what he could learn from fellow inmates. He was constantly providing us with any information he had available to him.

Mr. GREGORY. How about Haas during this period? Are you talking to him also?

Mr. WAGNER. Yes, occasionally.

Mr. GREGORY. On this or on other matters or both?

Mr. WAGNER. Particularly this case, yes.

Mr. GREGORY. What is he contributing to this case?

Mr. WAGNER. Palmer.

Mr. GREGORY. No, Haas.

Mr. WAGNER. Yes; Palmer.

Mr. GREGORY. No, but he has already done that, hasn't he?

Mr. WAGNER. Yes.

Mr. GREGORY. He brings Palmer in; Palmer looks like he is worth checking out. What more is there to do with Haas?

Mr. WAGNER. Well, Haas is also a pilot, and he also has played similar roles as a transporter in other DEA investigations for a period covering close to 15 years. Haas has offered his assistance to DEA. So Haas, of course, would work with Palmer in any endeavor we decided to continue.

Mr. GREGORY. Does he have any contacts down in Colombia himself?

Mr. WAGNER. I do not know.

Mr. GREGORY. He did not offer any to you?

Mr. WAGNER. He would have if he had, I am sure.

Mr. GREGORY. So the answer is no, he did not offer any; is that correct?

Mr. WAGNER. Correct.

Mr. GREGORY. Now, did Palmer go down alone on this trip to Colombia, or did Haas go with him or someone else?

Mr. WAGNER. I believe Palmer went alone.

Mr. GREGORY. Or do you know?

Mr. WAGNER. I do not know.

Mr. GREGORY. Did Palmer ever say anything, report one way or the other?

Mr. WAGNER. To the best of my recollection, he went alone.

Mr. GREGORY. How and when did he report to you on the results of that trip?

Mr. WAGNER. I do not recall the manner in which it was reported. In other words, I do not remember whether he came back to McAllen and we debriefed him in person, or whether we had a series of phone debriefings. I do not recall. I believe he came to McAllen.

Mr. GREGORY. Do you remember what your evaluation of what he brought back was? Did it look like things had been advanced as far as the possibility of some productive law enforcement work?

Mr. WAGNER. Things were starting to come together. He met an additional two or three people down there who seemed to be part of an extensive trafficking organization, both as a source of drugs and also as a distribution wing of the organization operating within the United States.

Mr. GREGORY. What is your recollection, Mr. Saldana? As the control agent, you would be perhaps more directly and more frequently in contact. What do you remember about the trip and his report on what transpired there?

Mr. SALDANA. Well, he did come back with lots of information as far as individuals who he had been introduced to by Mr. Morales. These people were talking about bringing large marijuana shipments once or twice a year for the past several years. He did come in with plenty of names, which a lot we had in our information system. And at that point, I thought it looked promising.

Mr. GREGORY. You have talked about in general terms what he brought back. Let me ask about what he took down. Did you have any game plan, shall we say, when he went down for any particular project or sting operations or any particular form that the operation might eventually take?

Mr. SALDANA. No. To the best of my recollection, he went down just to follow up on his leads in Colombia.

Mr. GREGORY. I think you have given a sense of the same recollection—is that not true, Mr. Wagner—already that it was still a further exploratory trip?

Mr. WAGNER. Yes. I just read over some of the records here I looked at. He came to McAllen on the 8th, August 8 for a debriefing regarding that trip.

Yes, that is correct. It was still exploratory at that time.

Mr. GREGORY. So he is back from Colombia; he has reported on that. What is the next step?

Mr. WAGNER. To continue his meetings with various members of the organization, some of which would occur in the United States, others in Colombia, others in Panama.

Mr. GREGORY. Does he mention landing sites in Mexico that the traffickers have available to them?

Mr. WAGNER. No, sir.

Mr. GREGORY. Do you recall when that first comes up?

Mr. WAGNER. Some time in August. Mid-August, last of August, September. A 30-day period from mid-August to the middle of September.

Mr. GREGORY. Why don't you describe for us, either of you, how that unfolds?

Mr. WAGNER. Let me begin by saying some time in the beginning of August, Palmer and Haas came to me and said various individuals involved in this smuggling organization that he had met in Colombia had asked him to fly a load of marijuana into the United States. At that time, I told him that we would not consider that at that time until we further explored who these people were and further identified the organization.

Some time in mid-August, Palmer and Haas indicated that these people were very, very anxious to fly a load. Pilots and aircraft were hard to come by, and when you found one, you wanted to keep him. And there are always many, many opportunities to fly loads from Colombia into the United States.

At that time, we had mentioned the barge case, that Palmer had said that the Colombians were interested in putting a large load together. And he, of course, touted that, saying that he had an organization in the States that could provide that transportation, and that a large load would be less risk, and, therefore, aircraft trips were not really viable. He would prefer to do the one big load using a barge or a boat.

I told him to pursue that, to do not consider a trip by aircraft. He did that, but apparently, the Colombians that he had met were pressuring him to do so. One, because he was not well known to them, and they wanted to see what he could do before they put all their eggs in one basket. Palmer now has two arrests on him, one in Colombia and one in the United States. We knew for sure that the Colombians were aware of his arrest previously that occurred in Colombia, but we were not too sure if they were aware of his arrest in Miami. He was on thin ice. If word got out, you could be assured that they would think that he was now out of jail and working for the Drug Enforcement Administration. That is always a threat in the background. You have to consider this at all times.

I told Palmer to discount the plane trip and continue pursuing the barge trip, and he did so. By mid-August, he said the Colombi-

ans were adamant; they wanted to do the plane trip. The barge trip was still in the extreme planning stages. At that point, I did not have too much confidence in it. I told him if it has to be, let us do the plane trip, then. Let us plan on bringing a plane from Colombia into the United States, and I told him to go ahead and make arrangements to do so.

The people involved at that time were a man and a woman later identified as Alex and Marta Cerna, and a Raphael Dangond, known as Chichi. Those were the primary people involved in bringing the load in. And at that time, I talked with Palmer and Haas, and I said go ahead and plan to make the trip. We will bring in the load from Colombia, and we will bring it into McAllen, use one of several airfields we have available depending on the scenario that we work out. The airfields range from private strips to an international airport that we had access to.

They said they would arrange it and attempt to convince the Colombians that this was the best way to do it to bring it into the United States.

A week passed. Palmer and Haas returned to McAllen. We had additional conversations regarding the trip. At that time, we needed to learn the locations of the airfield, clandestine airfield in Colombia. We worked out the scenario, how it would occur in McAllen where we would off-load, as we had done many times in the past, and work a reverse role undercover. That is a reverse operation where the agents would provide a service to the traffickers, off-loading, security, warehousing, transportation, delivery throughout the United States of the load. We felt this was a bird in hand; we were going to go with that one.

At that time, I continued to press for additional information regarding the location of the field in Colombia. At that point, I told Haas that it was necessary to know this so we could coordinate the activities of this flight with DEA in Bogota and the Government of Colombia. And at that point, Haas became extremely upset saying that in no case would he continue an operation of this sort if that were done. I said that the trip could not be done otherwise, could not be authorized, unless it was coordinated with our office in Bogota and the Government of Colombia. At that point, he said that it would be too dangerous to do, and he would not do it under those conditions.

Mr. GREGORY. Where are we in time at the time of this conversation?

Mr. WAGNER. The last of August. Some time in the last part of August 1986.

Mr. GREGORY. What was the conclusion of that conversation? Did he say, "I do not like it, but those are the rules"?

Mr. WAGNER. He said no. He would not do it. And at that point, I said, well, we have no other choice then, just cancel the trip. We will not continue. We will not do the flight. We have got to go back and get into the barge case and push that and disregard the airplane trip. And to do so, you are going to have to stall the Colombians somehow. They would be pressing for the trip. My advice to him and instructions to him was to stall. And a way of doing that would be to show their dislike to various airfields; saying, for instance, that the one in McAllen that they had access to was not

safe any longer because of an enforcement action or activity that was occurring along the border—which, as a matter of fact, it was at the time. It no longer meant McAllen could be used.

Tell the Colombians this. Go with them and attempt to locate other airfields throughout Mexico. Gain some intelligence on this matter so that we can stall them and at the same time learn of their trafficking methods and where they operate out of. And they did so for the next three to four weeks.

Mr. GREGORY. Now, is Palmer involved in these discussions, also?

Mr. WAGNER. Some. Not all.

Mr. GREGORY. Well, for example, is he ever involved in the discussion about the unacceptability of the plan as described?

Mr. WAGNER. Oh, yes. Yes. As far as needing the authorization?

Mr. GREGORY. Yes.

Mr. WAGNER. Yes.

Mr. GREGORY. So he is present? He knows about it because he is present at least on occasion?

Mr. WAGNER. Yes.

Mr. GREGORY. Does he give any personal reaction?

Mr. WAGNER. He agreed.

Mr. GREGORY. He agreed with you? Obviously, Haas did not.

Mr. WAGNER. He agreed with Haas.

Mr. GREGORY. He agreed with Haas. I see.

Mr. WAGNER. At this time, Haas is our prime—I considered him my primary source. He has the experience. He has worked with us. We do not know Palmer that well at that time.

Mr. GREGORY. What is he the source of? I mean, I understand what you mean when you talk about his experience and his services. But if you think of source in terms of—are you referring to source as a resource?

Mr. WAGNER. No, he is an informant. At that point, he is not a source of information.

Mr. GREGORY. By this time, have they received any money from the traffickers, to your knowledge?

Mr. WAGNER. I had no knowledge of that. I learned later that they had.

Mr. GREGORY. You learned later that they had at that time already received money?

Mr. WAGNER. No, not at that time. I was unaware that any moneys had—

Mr. GREGORY. You were aware that they did at some point, beginning at some point receive a \$150,000 advance from Cerna; correct?

Mr. WAGNER. Yes, sir.

Mr. GREGORY. First of all, when did you learn that?

Mr. WAGNER. After the trip.

Mr. GREGORY. And did you learn when they received it?

Mr. WAGNER. No. Some time—I assume it was at the time we actually had planned to do the trip when I told—instructed him to go out and set it up and get ready to go. So my assumption is it was during that time.

Mr. GREGORY. How did you learn, when you did, that they had received the money?

Mr. WAGNER. I asked them.

Mr. GREGORY. You asked them after the trip if they had received it?

Mr. WAGNER. Yes.

Mr. GREGORY. Did you express any displeasure that you had not been told about it before?

Mr. WAGNER. Well, at that time, as I do with any source of information, I laid some ground rules out. I impressed upon them that it was necessary, especially when moneys passed hands, that DEA participate in it, and that we know of all exchanges of moneys. And I——

Mr. GREGORY. So—I am sorry. Go ahead.

Mr. WAGNER. Report it and that it is necessary for our documentation that we are aware of this. And I also impressed upon Mr. Palmer at that time that he was on very tenuous ground because of his arrest in Detroit, and that he would have to be completely truthful and forthright with us; and should we determine that he was not, we would cease to use him, you know, allow him to be a source of information for the DEA. And I made that quite clear to Mr. Haas also.

Mr. GREGORY. When did you learn that they were going to or that they had—whichever is applicable—make the trip?

Mr. WAGNER. Well, at the same time, on the morning of the trip.

Mr. GREGORY. Would you describe for the subcommittee what happened then?

Mr. WAGNER. The morning of the trip would be the 17th. Prior to that time, as we discussed, they had visited several——

Mr. HUGHES. The 17th of September?

Mr. WAGNER. The 17th of September 1986. Prior to that time, they had traveled throughout Mexico locating strips, telling the Colombians that the strips were not adequate for their needs, let us find another one. This is their stall tactics that they were instructed to do—which is finally an answer to your question. Yes, they went throughout Mexico locating strips.

One of those strips that was located was a strip called San Miguel; it was near San Miguel, 30, 40 miles south of the Rio Grande River, near the Big Bend area of Texas. Cerna had found it and had become quite adamant that it be used, I supposed, at that time. I was not aware of it, but that was one of the strips that they had investigated and discounted and told them it was not adequate.

However, that is the background. And on the 17th, I got a call in the morning, in the morning hours of the 17th from Haas saying that the pressures had mounted, that the Colombians had threatened him, particularly the Cernas. There were other individuals involved in the threat. The threat was that if they did not go—and at that time, I did not know that they had already been paid. But Haas said they were in too deep, and these people meant business and that they had to go.

At that time I said, "You cannot go, Joe. You cannot go. It is not authorized. You have to have authorization from the Colombians to go. You can't go. You're going to go to jail. You're going to end up in a Colombian jail, and I'm going to have to tell your wife that."

And he says, "No, I'm not going to end up in jail. There's no problem. If you tell the Colombians, I'll be dead. We have to go. We're under pressure to go, and it has to be done."

At that time, I said, "Joe, you know you can't go." He says, "I've got to go. I'm going anyway."

I tried to convince him, but he would not listen. He felt that he had to go, he was going to do it; it was merely—he felt that our need to clear this with the Colombians was merely red tape, that it was merely a ploy to get informants killed, and he was not going to be killed. And he would be killed if he went to Colombia.

Again, I said, "Joe, if you're going to go, you got to do this right." I say, "You're going to bring it back to McAllen, and we'll work it that way." And at that time he said the Colombians had settled on San Miguel, where he had visited earlier, and that is where the Colombians said it had to go. They said it was going to go there. I said, "You got to bring it into the United States so we can maintain control. We got to have control. We can't let this stuff loose."

At that time, I was convinced that he was going to go, and there was nothing I could do about it.

Mr. GREGORY. But he had not left yet? It was the same morning; is that correct?

Mr. WAGNER. Well, he said he was there at the plane. I later learned that he was airborne. I did not know it at the time, but he was already on his way.

Mr. GREGORY. I see.

Mr. WAGNER. And he said that he would make every effort to bring it into McAllen. He said he would have to play it by ear. This was not a cookie cutter type case; things changed from minute to minute. You have to have options, and you have to be ready for any expediency. He said he would let us know when he finds out what his status is when he leaves. I say, "Well, when is that going to be?" In other words, "When are you going to leave Colombia?" He says, "I don't know. I don't know what the situation is, how long we're going to be there." He says, "I'll call you and give you a status when we're airborne and on our way."

And at that point, I emphasized to him, I say, "You've got to again make sure that it comes into the United States," and he says, "You know me." He says, "I'll make it come out right." I said, "Well, if you feel you can't make McAllen, go along some of our other fields along the border, to Del Rio, go to the Air Force base." And he says, "I got to go and I've got to be in contact with the Colombians at San Miguel." I said, "We've got to make this look right to them because if we don't, it's going to look just as bad to them, that we are either, one, stealing the load or we're working for the Government." The purpose of this trip is to show that they are not working for the Government, they can do what they say they can do. In addition to that, they've got the additional pressure on them to do the trip because they already accepted the funds and paid for the crew and paid for the aircraft, paid for the gasoline; it had to be done. And that was the end of the conversation.

Mr. GREGORY. Now, Mr. Saldana, were you involved in these discussions?

Mr. SALDANA. No, sir.

Mr. GREGORY. When you were interviewed by our staff earlier, you suggested that you had heard that there had been some consideration—and correct me if I misunderstood this—at some point of flying down to display the plane, and I think you used the term

"dry run." Was there ever any talk of a dry run, to your knowledge?

Mr. SALDANA. No. To the best of my recollection, we had talked about—or Mr. Haas and Mr. Palmer had talked with Mr. Wagner previously about that airplane load that the Colombians wanted. I do not recall any, or I was never present or never took part in any telephone conversations with the informants. But sometimes Mr. Wagner would brief me on the content of the phone conversation.

Mr. GREGORY. My question was whether from any source you remember ever any consideration to doing a dry run; that is, go down and not bring anything back.

Mr. SALDANA. No, sir.

Mr. GREGORY. When did you next hear from the crew down there, either of you, whoever had the contact? I think it is probably you, Mr. Wagner.

Mr. WAGNER. I did. He called me later that night on the 17th. I thought it was earlier. My wife says it was in the early morning hours of the 18th, and he called me at my residence. By telephone.

Mr. GREGORY. Where were they then, or where did they say they were?

Mr. WAGNER. Oh, I asked him. I said, "Where are you?" He says, "We're in Mexico." And I said, "Well, what's the status?" Our main concern at that time—obviously he had no problem in Colombia—is to whether he had any violators on board. I do not recall whether I asked him or he told me, but he said everything was all right and that they were in Mexico.

I said, "Well, are you going to come into McAllen?" He said, "We're past that. It's too far. We're already past that." I say, "Well, you got to take it into Del Rio." He says, "Well, we're going to follow through with our game plan. We're going to go over to San Miguel." He says, "We got problems, though." He says, "I want you to find a place closer, not Del Rio, but closer along the border."

He says, "We're having problems communicating." He did not say whether the radio was working or not working, but he said they could not make contact with the people on the ground. They did not know what airfield to land at. Apparently, they had an alternate other than San Miguel and that they were not aware of its location, other than the fact it was going to be nearby.

Should there be any problems on the ground, one, because of police activity or military, Army activity—they were afraid of the military. Those are usually the ones that would interrupt any operation on the ground.

He says, "You've got to find another spot, and I'll call you back." And that was it.

Mr. GREGORY. Now, he made reference to a game plan. What did you understand that to mean?

Mr. WAGNER. He was going to pull a scam on the Colombians to make it appear that he had arrived at their location that they had settled on, where he would land, and develop mechanical problems where they would have to divert. But he felt that he had to be in contact with them, communicate with them so they can see the airplane, that it got there.

He said if they never saw that first, then any place they went to would arouse tremendous suspicion, and they would be right back in the same boat they were in, that they were actually working for the Government.

That is what he related to me. He felt that he had to complete act 3 of the play, and act 3 was fly over the airfield that was designated by the Colombians to land. But at that point, they did not know they had no radio contact with them. So they were getting concerned at that point.

At that point, he told me to find another spot along there that was suitable for us to operate out of. And I barely got out of bed when he called me right back, and he says, "Forget about it. We got them on the radio. We're out of gas, and we're going in." He says, "I'll call you later."

Mr. GREGORY. What time, McAllen time, did he first call you?

Mr. WAGNER. Like I said, I thought it was nine or ten in the evening, but my wife said it was well after midnight.

Mr. GREGORY. Were you asleep already?

Mr. WAGNER. At that time, yes.

Mr. GREGORY. Do you usually go to sleep at 9 o'clock?

Mr. WAGNER. No, no.

Mr. GREGORY. I am just saying you thought it was nine.

Mr. WAGNER. I do not know whether at that time—when I talked to your investigator before that time, I said that I thought the call was at 9 or 10 o'clock at night. I was not sure.

Mr. GREGORY. But to your best recollection now, it was—

Mr. WAGNER. I talked to my wife, and she said it was 1 or 2 in the morning that occurred. She said I kept saying "over" all the time on the radio/telephone.

Mr. GREGORY. Now, when he said "our game plan," at that point was it a game plan that had been shared with you and you, however reluctantly, were—

Mr. WAGNER. Only the briefest of terms when I had talked to him earlier.

Mr. GREGORY. But earlier he had talked about this overflight and coming on in to the United States.

Mr. WAGNER. He would say he was going to pull a scam and pull a mechanical problem. He said he had to make it look good. He says, "It had to look good."

Mr. GREGORY. You then, I understand, met the flight when it came in from the Mexican landing site to McAllen; is that correct?

Mr. WAGNER. Right. He called me on the phone again and said that they were airborne, they were going to recover in McAllen.

Mr. GREGORY. What was the essence of the conversation that you had with him, with them when you first saw them in McAllen?

Mr. WAGNER. I asked them if they were all right.

Mr. GREGORY. Did you say anything, any comment about what they had done, the degree to which they had violated or adhered to instructions?

Mr. WAGNER. No, not a word. I was in a public enclosure. I was at the airport. I would not discuss our business.

Mr. GREGORY. How about the first time you had an opportunity to talk to them in private?

Mr. WAGNER. Well, I took Haas immediately over—after they cleared customs, I brought them to the DEA office and debriefed him.

Mr. GREGORY. You debriefed them, but my question was: Did you make any comment to them yourself about the propriety of what they had done or impropriety?

Mr. WAGNER. I did, but I listened to him first. I wanted the entire story and all the details of what happened. I was concerned for their well-being in going to Colombia in the first place. I was concerned for him and his crew, what could occur to them if they had been caught in Colombia. They would have been in jail for 7 years.

I do not know if we are getting into an area of sensitivities here. Anyway, I expressed my concern to him because of that. He immediately apologized and told me of his concern that the load had landed in Mexico, that it had to be done, that there was no—fate had brought them to that point, there was no turning back and it had to be done because of the gas situation.

Mr. GREGORY. Did you contact any U.S. law enforcement agencies at that time?

Mr. WAGNER. Well, initially, I had contacted Customs before they landed in McAllen. Our contact there, a special agent in uniform division, was already at the airport when they were cleared through normal—

Mr. GREGORY. They cleared them through; is that correct?

Mr. WAGNER. Right. Well, they did it on their own. We just sat there and waited until they cleared, and then we took them to our office.

Mr. GREGORY. Did you make any notification of the arrival of that flight in Mexico to any other agencies?

Mr. WAGNER. Other agencies, no.

Mr. GREGORY. How about anyone at DEA?

Mr. WAGNER. Well, after I had thoroughly debriefed them at the office and I learned all the details of the flight, what had happened, the description of the marijuana, approximately how much it was, where exactly it was and the details of the off-loading, et cetera, I immediately contacted our office in Eagle Pass, TX, and our office at Alpine, TX, along the border, and notified them of what had occurred and that the appropriate lookouts should be instituted immediately because from that time on they could look forward to seeing some Colombian marijuana coming across the river.

Mr. HUGHES. If I might just interrupt you there, we have a vote in progress. We are going to recess for about 10 minutes.

[Recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order. Mr. Gregory.

Mr. GREGORY. Mr. Wagner, you were just describing, when the subcommittee broke, the notification you made about the landing of the plane and the arrival of the marijuana in Mexico. I think you said you called—first, was it you telephoned two DEA offices?

Mr. WAGNER. Yes. Personally telephoned—I know the agent personally, the one in Eagle Pass, TX. I called him and personally notified him that he may be having loads of marijuana crossing in his area of jurisdiction or responsibility.

Mr. GREGORY. Did you send any teletypes or cables or whatever appropriate form you would use for any written notification?

Mr. WAGNER. A cable was sent, I think 2 or 3 days later.

Mr. GREGORY. Two or three days later?

Mr. WAGNER. Yes.

Mr. GREGORY. Do you recall was this before or after the seizure of some 3,000 pounds coming through the border?

Mr. WAGNER. It was before.

Mr. GREGORY. So the flight arrived. What day of the week was it, do you recall?

Mr. WAGNER. No, I do not.

Mr. GREGORY. How long was there between the landing of the flight and the seizure of, I believe, the 3,000 pounds or something in that vicinity?

Mr. WAGNER. Two weeks, approximately. I do not recall. I do not know.

Mr. GREGORY. What was that written communication that you referred to that you sent? What form was it?

Mr. WAGNER. It was a teletype, a TWIX to all our offices in the areas of their responsibility, where the marijuana may come across. That was my prime concern, after debriefing Haas, to get that information out as quickly as possible so we could salvage the situation and interdict those drugs.

Mr. GREGORY. You say it was 2 or 3 days later that that went out?

Mr. WAGNER. The teletype went out?

Mr. GREGORY. Yes.

Mr. WAGNER. Yes. But my initial—that very same day I talked to the agents along the border where we thought it was going to come across; Eagle Pass, TX, in particular.

Mr. GREGORY. Do you know if that notification had anything to do with the seizure that did take place? Do you know, for example, if your office—you might have gotten some feedback after the seizure. Had they communicated with the agency that made the seizure?

Mr. WAGNER. I talked to the Border Patrol personally at the time of the seizure. They are always looking for drugs. I do not know—the agent I talked to, I really never discussed that with him in particular. I just got the details of the seizure itself. His interdiction of those drugs was as a result of probable cause that he developed at the site, the scene.

Mr. GREGORY. How did this series of events—I am talking about your description of the circumstances which led to the flight to Colombia and the flight back in—how did that affect your attitude, if at all, about the feasibility of using these two individuals?

Mr. WAGNER. I was extremely upset with Haas that he would jeopardize his life and the lives of his crew members by going to Colombia.

Mr. GREGORY. You say Haas always. Is it only Haas? Is it his operation? I am looking at the 6's. He seems to be a secondary figure, and Palmer is the primary figure.

Mr. WAGNER. Primary in that Palmer was the source of information from the traffickers. Haas was our man who was going to be

the operations chief on this flight. He was the pilot in command of that aircraft.

Mr. GREGORY. So he is the one in your mind that is primarily responsible. Is his continued use in jeopardy, use by you?

Mr. WAGNER. Well, Mr. Haas is deceased, sir.

Mr. GREGORY. No, I meant at that point is it in jeopardy? Was it in jeopardy at that point?

Mr. WAGNER. It had crossed my mind. I was upset with him only to the point that he jeopardized his life and the life of the other people. After I heard the story, I was greatly concerned about the drugs ending up inside of Mexico. It was our job at that point to follow through and salvage the situation and make every effort to interdict those drugs.

Mr. GREGORY. So did you, in fact, in any way alter the manner in which you used or handled or managed Haas or Palmer as a result of this? Any additional controls, any additional scrutiny?

Mr. WAGNER. As I said before, I admonished both of them, and we went through the rules again, that being that he is to follow our instructions explicitly; that any moneys, in particular, would have to be reported because we want to make every effort to make an accounting of moneys if they are in such a position, or in a circumstance where DEA can gain some control of it, as we always do.

Mr. GREGORY. Now, had this flight come into Texas, I take it the load would be seized; is that correct?

Mr. WAGNER. Yes, seized. We would take constructive control of it, you might say.

Mr. GREGORY. But in any event, you would take the load out. There would not be any plan to let it go further in catching other people? You were going to get out of it as soon as you could?

Mr. WAGNER. Oh, no. We have a scenario that we would follow through. It may take months before it was over.

Mr. GREGORY. Oh, I see.

Mr. WAGNER. Depending on the—of course, we are at the mercy of the violators at many times. We try to place them in a situation of force majeure where they can only react in one way. Of course, at times they are capricious, and we do not know which way they are going to turn. And we have to react when they react. But our plan was, once we got control of the drugs, we could fairly well perhaps control their activities, to bring them in, and probably have some control of deliveries of portions of that load to various parts in the United States—as we had done many times in the past on various other operations, both in Miami when I was there and McAllen when I was assigned there. It is very effective.

Mr. GREGORY. Did you have DEA personnel out at any of these possible U.S. landing sites to greet the flight, had it come in to one of those? Anybody on the ground there?

Mr. WAGNER. No. Perhaps I could give you a description of McAllen, Texas. When I was there, I could get up at 9 o'clock and get to work at nine o'clock. It is a city of 80,000 people. It is flat. There is no traffic. The three airfields in question, one was directly across the street from our office. The other airfield was a matter of 15 minutes away, and the third alternate was perhaps 30 minutes away. To respond, a simple matter.

Mr. GREGORY. What happened in the operation—I am going to move through this as quickly as I can and get to the culmination of the whole Intruder—following this? What is next in terms of the contact with the traffickers and further developments in the case?

Mr. WAGNER. Well, my immediate instructions to Mr. Palmer, in particular, was to get with the traffickers and immediately try and determine what they intended to do as a result of that marijuana being in Mexico and how they were going to distribute it. And that was his primary duty for the next few weeks, to get with these people, in particular a man called Justin Adams—also known as “Doc”—and the Cernas to find out how they are going to distribute, where they are going to come across the border. As a result of that, we got some details, in particular where the loads were going to be coming across, and we passed that on to the appropriate authorities at those locations.

Mr. GREGORY. Now, had the plane landed in the United States, would that have affected the viability of what turned out to be the boat deal? You mentioned that was your primary interest, and you were telling Haas and Palmer to push that.

Mr. WAGNER. Correct. That is correct, sir. At that time, the boat deal was stalled. It just was not proceeding. So I had given up on the boat deal at that time. I felt a bird in hand—I learned this through 20 years of law enforcement, to take what you got in your hand, because if you wait around for the other bird to land, the first one is going to fly off and you will be left with nothing.

So we were going to take their planeload and move with it, as we had done before, and they were successful operations. And I felt this one would be equally successful.

Mr. GREGORY. Palmer had told us, in describing the situation just before the Mexican flight, that everyone was pushing to bring the load into the United States, and it looked like we were going to do that, and take out the load and arrest the traffickers and, you know, that would be accomplished and it would be the end of the case. Would you agree with that?

Mr. WAGNER. Generally. That is what probably would have occurred, to one extent or another. As to how far we could continue it, like I say, it is a matter of how the violators react to the way we react and vice-versa. There is no cookie cutter, no contract, no plan; in that respect, you do not know. Sometimes you get lucky and are really fortunate.

Mr. GREGORY. When were DEA agents first put in contact with traffickers in this operation?

Mr. WAGNER. Any of those traffickers we had mentioned before?

Mr. GREGORY. Yes.

Mr. WAGNER. Oh, let's see. In particular, we have got some undercover agents that go to Panama on September 28 to meet some traffickers, in 1986. I would say that is probably the first meeting where our agents are actually introduced to the traffickers to play out their undercover role.

Mr. GREGORY. When does the—what is the best way to refer to it? I know it was talked of as a barge deal, and eventually it was not a barge deal. Let us just call it the barge deal. When did the barge deal re-emerge, if that is the right word, as a possibility?

Mr. WAGNER. At that time, it was discussed with the traffickers.

Mr. GREGORY. At the Panama meeting.

Mr. WAGNER. At the Panama meeting. And it would have been Agents Saldana and Mason in that role.

Mr. GREGORY. Tell us about that, Mr. Saldana, briefly. What was the essence of that meeting from your viewpoint?

Mr. SALDANA. Well, the essence of that meeting, we were going to have a meeting between the Colombian violators, Mr. Morales, Mr. Dangond, Mr. Cabello, Mike Palmer, and Agent Mason and myself, to discuss the possibility of transporting approximately 500,000 pounds of marijuana from Colombia to the United States.

Mr. GREGORY. This was September of 1986, late September; is that correct?

Mr. SALDANA. Yes, sir. Agent Mason was the undercover agent that actually met with the Colombian violators. A discussion took place as to fees that we would need for our operating expenses; also some sort of time frame for delivery of the marijuana.

Mr. GREGORY. Did they indicate that they had done a shipment of this size any time before?

Mr. SALDANA. Yes, well, that was during a previous meeting between the Colombians and Mike Palmer where they had told him that they had been involved in 600,000-pound marijuana shipments for the last several years.

Mr. GREGORY. To where?

Mr. SALDANA. I believe it was to Baltimore.

Mr. GREGORY. Were you able to ascertain if there was any validity to that through checking your own law enforcement indices?

Mr. SALDANA. No, sir.

Mr. GREGORY. What size lot are we talking about? Is this 500,000, something in the neighborhood, at the Panama meeting?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. And planning went ahead for that; is that correct?

Mr. SALDANA. Pardon?

Mr. GREGORY. Planning proceeded for that operation?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. Was money advanced to DEA by the traffickers for that purpose?

Mr. SALDANA. Not at that time.

Mr. GREGORY. Was it eventually?

Mr. SALDANA. Yes, sir.

Mr. GREGORY. How much money total did traffickers advance to DEA?

Mr. SALDANA. There was a total of approximately \$500,000 given to undercover agents in Corpus Christi, TX, on October 18, 1986.

Mr. GREGORY. How much money was Palmer and/or Haas to receive from the traffickers, or did they receive for the Mexican flight?

Mr. SALDANA. I do not know, sir.

Mr. GREGORY. Have you received any information about that since then?

Mr. SALDANA. I do know they received \$150,000 from Mr. Cerna for expenses. I am not aware of any other payments made to Mr. Palmer for that marijuana.

Mr. GREGORY. We have been given a figure by various people of \$65 a pound for 20,000 pounds, and a payment of \$1.3 million. Is that a figure that you associate with that operation?

Mr. SALDANA. I have heard that figure, but I never knew, or we did not know or we do not know if that \$1.3 million was paid to Mr. Palmer.

Mr. GREGORY. I would ask whoever would be appropriate on this question. What is the DEA policy regarding trafficker funds that are going to CI's, not to agents but to CI's? What is your policy regarding that?

Mr. HAMBRICK. It would depend upon the circumstances of the particular—

Mr. GREGORY. Let's say in this circumstance, and maybe Haas and Palmer are in different categories. If so, tell me in this regard. What are the rules?

Mr. HAMBRICK. If we felt that the funds were being utilized to offset the expenses of the investigation, then we would have no problem with it. If we felt that the violators were increasing their own income, then we would have a problem with it. We would insist that the moneys be turned over to us.

Mr. GREGORY. So it sounds like there is not a hard and fast rule on it. Is that correct?

Mr. HAMBRICK. No, sir. There is a rule. But it just would depend on what we find out that the money is being utilized for. In this case, we were aware of Palmer and Haas using moneys that they got from the violators to pay expenses with.

Mr. GREGORY. For example, is there a specific provision in the agent's manual relating to money that traffickers supply to cooperating individuals, as far as accounting for it, as far as permissible uses?

Mr. HAMBRICK. If it is in our presence, yes. If it is not in our presence, no.

Mr. GREGORY. If it is in your presence, it is treated in the same fashion as if agents receive it?

Mr. HAMBRICK. If there is a method in which we can secure the money and not expose the investigation, yes. If we are in a position where we have no right to ask for those moneys to come to us in that undercover role, then we have got to sit and watch it go down to maintain the undercover investigation.

Mr. GREGORY. To the knowledge of DEA, how much money was passed from the traffickers to the cooperating individuals in this case, including money that was passed through DEA?

Mr. HAMBRICK. I have it. It may take me a second to find it. I have what we have added up.

[Pause.]

Mr. HAMBRICK. From what we were able to tell, the violators either gave or were passed through both of the cooperating individuals as far as expenses and prepayment on part of the marijuana, we come to \$2,490,000, I think.

Mr. GREGORY. Now, of that—\$2,490,000?

Mr. HAMBRICK. Yes, sir.

Mr. GREGORY. How much of that was expended in any fashion?

Mr. HAMBRICK. All of it.

Mr. GREGORY. How much of it was expended under the control of DEA?

Mr. HAMBRICK. Approximately a half a million dollars.

Mr. GREGORY. So there was approximately \$2 million expended at the control of Palmer and Haas?

Mr. HAMBRICK. Excuse me. It looks like it is about \$774,000.

Mr. GREGORY. What is 774? You said "it" is 774, and I do not understand what the antecedent of "it" is.

Mr. HAMBRICK. I am trying to correct the answer I gave you before.

Mr. GREGORY. I see. Which one?

Mr. HAMBRICK. \$774,000 was what was either done in front of us or by us.

Mr. GREGORY. I see. What did that money go for? I mean broad categories.

Mr. HAMBRICK. Everything from repairs to the boat that was utilized, to fuel oil, paint, equipment, radios, crew rental, warehouses. Now, you are talking about the moneys that DEA expended?

Mr. GREGORY. Yes, that is what you are explaining.

Mr. HAMBRICK. Telephones, condos, warehouses primarily was the major cost, radio gear.

Mr. GREGORY. How much for repairs to boats

Mr. WAGNER. I could probably answer that.

Mr. GREGORY. Yes, sir.

Mr. WAGNER. I am more familiar. There were some repairs to the barge that we intended to use. We had it outfitted, changed its configuration so it matched the undercover role that we were playing. There were several thousand dollars utilized for those funds to make these changes on that barge.

Mr. GREGORY. OK. Just to move ahead——

Mr. HUGHES. Before you move on, do you have a list of the expenditure of that \$774,000?

Mr. HAMBRICK. Yes, I do.

Mr. HUGHES. Would you make that available to us, please?

Mr. HAMBRICK. Yes, sir, we will.

Mr. HUGHES. Without objection, it will be made part of the record.

[The information was not submitted.]

Mr. GREGORY. So there was approximately \$2.5 million trafficker funds expended in this operation; \$774,000 of it was controlled by DEA. Is that correct?

Mr. HAMBRICK. Yes.

Give me the total figure.

Mr. MILEY. My figure on it, sir, is \$771,000.

Mr. GREGORY. Well, let's not quibble over that, but looking at the broader categories.

Mr. HAMBRICK. Yes, that is correct.

Mr. GREGORY. The rest of it was under the control of the cooperating individuals.

Mr. HAMBRICK. And the violators themselves.

Mr. GREGORY. Maybe my question was too complex, but it went to money that either the C.I.'s or DEA controlled. Now, is there some money that the traffickers——

Mr. HAMBRICK. Sure. We were not at all meetings, sir. There were several meetings where we were not present where violators were present with Palmer and with Haas. There were two sets of violators. We had Mr. Cerna that was present with some of the Colombian violators where money exchanged hands. On those instances, we had to go by what we were told or what Palmer and Haas were told had exchanged hands.

Mr. GREGORY. But if money were passed, for example, from Cerna to Dangond and with no involvement of your cooperating individuals or DEA, that would not fit in that category, would it? Because my question went to money that was passed through either you directly or the cooperating individuals.

Mr. HAMBRICK. No, sir. That would—

Mr. GREGORY. I am just trying to define terms so I understand.

Mr. HAMBRICK. As I understand the question, that would be in addition. What I am referring to or what you just asked us is the 771 and the 2.4.

Mr. GREGORY. What kind of accounting, if any, did DEA require of Palmer and Haas as to how they spent that \$1.6 million, or something in that neighborhood?

Mr. HAMBRICK. To advise us of what it was for, and supply us with receipts to show that they had made a payment where they could.

Mr. GREGORY. What receipts did they give you?

Mr. MILEY. For numerous expenditures that were made by the informants, there were no receipts involved. You know, the violators do not have invoices and receipts. There was \$200,000 to get from that man to this man. Palmer did bring to us \$25,000 personal expense receipts which he paid for personally and was never paid for by the violators: credit card charges, car rental, travel, motel bills, and telephone bills, which we paid.

Mr. HUGHES. Counsel, let me ask a question.

Do you have receipts that you received from Palmer, some written indication of the expenditures, a breakdown of the expenditures of this \$1.6 or \$1.7 million or not? That is the question.

Mr. MILEY. No, sir.

Mr. HUGHES. All right. Now, you indicated you did get some idea of how the money was spent. Was that after the fact or was that simultaneous with the dealings in money? When in time of fact did you get some idea of how the moneys were spent?

Mr. HAMBRICK. Mr. Chairman, he would come to us and say, "OK, I've got to go rent a barge, I've got to go rent a boat. To rent this boat, I've got to get a crew. The crew's got to be on standby. Here's where I'm going to rent the boat from. Here's what the boat's going to cost us."

Mr. HUGHES. What we are trying to find out is: Was there any effort to find out if what he was telling you was the truth, that he needed \$200,000 to rent a barge or \$50,000 for equipment or \$150,000 for repairs?

Mr. HAMBRICK. No, sir, because our previous experience had shown us—

Mr. HUGHES. That is the answer.

Mr. HAMBRICK. That he would not have told us—

Mr. HUGHES. I understand. The answer is no, you did not.

Mr. HAMBRICK. We did not. We could not in the undercover position we were in.

Mr. HUGHES. I understand.

Why don't we do this? There is another vote in progress. I apologize. You know, we are going to be interrupted periodically. Why don't we recess at this point. It is 12:15. Why don't we come back at 1:15. We will break for lunch. You have been at it for some time now. We will break for lunch until 1:15.

The subcommittee stands in recess.

[Whereupon, at 12:15 p.m., the subcommittee recessed, to reconvene at 1:15 p.m. the same day.]

AFTERNOON SESSION

Mr. HUGHES. The Subcommittee on Crime will come to order. Counsel.

Mr. GREGORY. Gentlemen, when we broke, we were discussing the amount of money that passed either through DEA or the CIs, trafficker money, and we were discussing the accounting for that.

I think at the time the last remark Mr. Miley had indicated that he had not received receipts from Palmer and Haas for the money that they received from traffickers unexpended.

Short of receipts, did you receive any kind of accounting? Did they, on a periodic basis or at any time, say we spent the following amounts, without receipts, but was there at least a representation of what they spent the money for?

Mr. HAMBRICK. Yes, sir, we did. In fact, during the lunch break, I realized that some of my answers may have been confusing. I would like to recapitulate those monies that I could that we are aware of.

In essence, from the violators themselves, DEA received a total of \$1,065,000. An additional \$80,000 was received in Detroit, bringing the total to \$1,145,000. Of that, DEA expended \$771,000 to offset the costs of the investigation.

In addition to that, we are advised by Mr. Palmer and Mr. Haas, that the monies that they paid in pursuit of the investigation and/or witnessed being paid was approximately \$2.4 million. Now, we do have what you just asked, which is their totals of what those expenses were, which we will be happy to submit to the subcommittee.

Mr. GREGORY. When did you receive that information from them?

Mr. HAMBRICK. All during the investigation, they would discuss what expense item that they had or what they needed to pay. In fact, they initially asked DEA for us to be able to pay it. But we were already running out of what funds that we had that had been provided us, and we didn't have it. And it was our suggestion they attempt to get the violators to pay for it themselves.

Mr. GREGORY. Do your records reflect any amounts that Palmer or Haas received for the flight into Mexico; in other words, for the services rendered as distinct from advances for the ongoing operations?

Mr. HAMBRICK. We have what they advised us that they received, being \$150,000, which was allegedly for the expenses of the trip

into Mexico, yes, sir, and to offset some of the expense for the barge case.

Mr. GREGORY. But you have no information about whether they were paid for the delivery of the 20,000 pounds into Mexico, other than the \$150,000?

Mr. HAMBRICK. No. As we understood it, the sale of all of the marijuana was never consummated. Therefore, there wasn't a final payday for Haas and Palmer.

Mr. GREGORY. Can you help us on that Mr. Saldana? What can you tell us about the payment for the Mexican shipment, payment to the informants?

Mr. SALDANA. The only payment I am aware of is the \$150,000 downpayment that they got before the trip. We do not have any records reflecting any other payment on that trip.

Mr. GREGORY. Putting aside the records for the moment, did you tell one of our staff that you had later heard that they did get \$1.3 million for it?

Mr. SALDANA. Who?

Mr. GREGORY. If you could just answer that question first.

Mr. SALDANA. That \$1.3 million was supposed to be received by Mr. Palmer but all through the investigation, not in one lump sum.

Mr. GREGORY. But my question was do you remember—it is accurate, did you tell a member of our staff that you later heard that—later meaning after it happened—that they had received that amount of money for the shipment?

Mr. SALDANA. Yes, I did hear it. But like I say, that \$1.3 million was not a lump sum payment.

Mr. GREGORY. Where did you hear that, that they had gotten that money for that shipment?

Mr. SALDANA. Where I heard it was that the total payments or total money received from the violators to Mr. Palmer was approximately \$1.3 million.

Mr. GREGORY. From whom did you hear that?

Mr. SALDANA. From Mr. Palmer.

Mr. GREGORY. Mr. Palmer told you he received \$1.3 million?

Mr. SALDANA. Yes. All along the investigation, yes.

Mr. GREGORY. Did Mr. Haas have a different financial arrangement with DEA from Mr. Palmer?

Mr. HAMBRICK. He would normally have, yes, sir. In this particular case, they were treated as one operating team.

Mr. GREGORY. He would because he is not himself a violator, is that true?

Mr. HAMBRICK. To our knowledge, no—

Mr. GREGORY. But my question went to why you said he ordinarily would, and my understanding is that he was not in a violator status?

Mr. HAMBRICK. No. It would be because he had worked for us in the past as an informant. We had made separate payments to him that had nothing to do with Mr. Palmer.

Mr. GREGORY. I see.

Do you have rules in DEA relating specifically to payment for persons who are cooperating but are themselves under indictment or other jeopardy?

Mr. HAMBRICK. That's true.

Mr. GREGORY. What are their fields?

Mr. HAMBRICK. That basically we will—it is a guideline, it is not a specific rule.

Mr. GREGORY. I see.

Mr. HAMBRICK. It is that normally we will not pay a reward to a person who is a defendant who is cooperating to receive beneficial treatment from the court for his case.

We do pay for the services, we do pay for expenses though.

Mr. GREGORY. Getting back to Haas, there was no arrangement with him other than that would apply to Palmer in this case?

Mr. HAMBRICK. Oh, no.

Mr. GREGORY. There was no arrangement for—

Mr. HAMBRICK. I see the point of your question, yes, sir. No. Mr. Haas would have probably been compensated at the end of this investigation for, one, bringing Palmer to us as a subasset and, two, for assisting all the way through the investigation.

He would have ended up receiving a payment. We would have applied through the Asset Forfeiture Fund to give him that payment, which will probably still be done to his family.

Mr. GREGORY. I see. And did there come a time in the operation in which you received notification—again whoever is the best person to answer this—that there was a considerable amount of marijuana assembled in Colombia awaiting pickup?

Mr. WAGNER. I can probably answer that, sir.

Yes, we were hoping to have as much as 500,000 pounds available. And that amount varied from day to day depending on what trafficker was being talked to, what combination of traffickers were in or out of the operation.

Of course, as it finally came to be, there was only 120,500 pounds placed on the ship. There is some information available that there was as much as 200,000 pounds of marijuana left on shore and not loaded that night.

Mr. GREGORY. Didn't Palmer report back to you some weeks before the actual shipment that there was 400,000 pounds down there ready to be shipped?

Mr. WAGNER. During the—

Mr. GREGORY. Late June.

Mr. WAGNER. One of his visits he made in June. He traveled throughout Colombia and went to various locations. And he gave an estimate at one time that he saw what he thought to be 400,000 pounds of marijuana, just an estimate of what he saw.

Now, he saw various amounts in various locations. The traffickers at that time said, of course, this is what is available, and this is when we negotiate this that where we are going to actually bring it down and load it up, this is your marijuana. It was just inspected way back into the hills according to Mr. Palmer.

Mr. GREGORY. At the time that the Madrid went in to make the pickup, what were you expecting the load to be?

Mr. WAGNER. I was expecting 500,000 pounds. That was my hopes.

Mr. GREGORY. Anyone there from DEA during the loading?

Mr. WAGNER. No, sir.

Mr. GREGORY. How about informants, were they there? Was Palmer or Haas or—

Mr. WAGNER. No, sir.

Mr. GREGORY. So just violators there at that time?

Mr. WAGNER. Yes, sir.

Mr. GREGORY. What was the strategic reason or tactical, however you identified it, for not having even any informants at least that were working for us, and only violators there?

Mr. WAGNER. The informants expressed no interest whatsoever to be present.

One, because they were afraid to.

Mr. GREGORY. Is that their call or is that yours?

Mr. HAMBRICK. That was our call, and I think that point could be cleared up very clearly or very quickly if we could do it in executive session.

Mr. GREGORY. Sure.

Mr. HAMBRICK. I would be happy to discuss that.

Mr. GREGORY. Of course.

Mr. HAMBRICK. I think it will be clear exactly why there were no informants or agents there.

Mr. GREGORY. I understand. Were you ever able to determine, one, if the marijuana was actually there and available and, two, what happened to it, the discrepancy between 128,000 pounds and 500,000 pounds?

Mr. HAMBRICK. Yes, sir. We, after looking over the case and after talking with the informants, and talking with the crew, once the crew was met, determined that the captain got extremely nervous because it was getting daylight. And the loading had been going very slow, which had been monitored via radio, which we also were able to understand. The captain left before he should have left in getting the entire load.

Subsequently, while the boat was en route back, or just as it got back, and I may be just a little off by a day or two here, there were negotiations that took place between Mr. Palmer, one of our agents, and the people in Colombia, to get the other 200,000 pounds on a boat and get started with it.

They, at that point, wanted to wait and see if the present operation which they had went smooth since we were already here, and they would consider sending the other 200,000 pounds.

Mr. GREGORY. Now, the last act, at least in this phase of Intruder, was the flight of a DC-6 from Colombia into Michigan, is that correct?

Mr. HAMBRICK. That's correct. That was the wind-up phase of this.

Mr. GREGORY. The wind-up phase.

How was that destination selected?

Mr. HAMBRICK. The place where we would land or where we would go in Colombia?

Mr. GREGORY. Where you would land in the United States.

Mr. HAMBRICK. That was selected by us in consultation with Mr. Palmer, because it was an airfield that he had used previously as is spelled out in the indictment for which he was indicted. And because of his familiarity with the airport, the fact that it was in Detroit, that our office was in Detroit. We had some alleged New York and Canadian violators that were supposed to be a part of that load. We mutually selected that to bring the New York viola-

tors out of their home territory and for us to go into a place where we were familiar, or where Mr. Palmer was familiar.

Mr. GREGORY. Was the fact that he had an indictment there mentioned in any of the discussions as a consideration?

Mr. HAMBRICK. It may have been between DEA, the two DEA offices, that we already had the marijuana operation in an undercover capacity from Texas, and from Texas as set forth on the chart that we brought, in Atlanta, in Miami, in Denver, and we wanted to separate the cocaine delivery from the same location where we were attempting to carry out the marijuana transshipments.

Mr. WAGNER. I also had conversations with our Detroit office regarding that choice. And they had a vested interest in the case. That was another reason why it went there; that Mr. Palmer was familiar with the area, and the violator Morales knew that he was familiar with the area. That was one of the reasons.

Technically, you could have taken the flight into any city. But operationally we felt for tactical reasons it would probably be the best city to use.

Mr. HAMBRICK. That particular airport sits on an island, and it would be very important for us from a tactical sense to be able to maintain security over the investigation.

Mr. GREGORY. Yes. Thank you, Mr. Chairman.

Mr. HUGHES. Well, just picking up on that last point, there is no question, is there, that Detroit was selected in part because that's where Mr. Palmer was indicted?

Mr. HAMBRICK. As was just said, I think, yes, sir, that was one of the reasons.

Mr. HUGHES. I understand. But, you know, there seems to be some dancing around the maypole. You could have selected any site really and made it secure and made the bust. But Detroit was selected because that's where Palmer was indicted.

Mr. HAMBRICK. That was partially true, yes, sir.

Mr. HUGHES. All right. Now, what ultimately happened to Mr. Palmer? He had, I think, an indictment and five counts returned against him. What ultimately came of that indictment? Was it ever tried?

Mr. HAMBRICK. No, sir, it was not.

Mr. HUGHES. What happened to him?

Mr. HAMBRICK. It was eventually dismissed in October.

Mr. HUGHES. So Mr. Palmer walked totally?

Mr. HAMBRICK. I'm sorry?

Mr. HUGHES. He walked totally.

Mr. HAMBRICK. He walked from the legal indictment, yes, sir. He is no longer going to be involved in the narcotic traffic.

Mr. HUGHES. You hope.

Mr. HAMBRICK. Well, I don't know too many people, Mr. Chairman, that he is going to be able to go to to obtain drugs any more.

Mr. HUGHES. True. That part of it is true.

Mr. HAMBRICK. There is a death warrant out for him now from those violators. He certainly can't go back to Colombia and reenter there.

Mr. HUGHES. At this point, certainly his cover has been exposed.

Mr. HAMBRICK. Yes, sir.

Mr. HUGHES. So that is true.

When Mr. Palmer first came in to talk to you, Mr. Saldana, he lied to you. When he came back the following day, he was still lying to you, was he not?

Mr. SALDANA. When he came back the following day, he did say he was involved in two 15,000-pound marijuana loads and an additional 10—

Mr. HUGHES. He still was not being candid with you?

Mr. SALDANA. Well, we just go through this. Every time we get a new informant, I mean we feel them out and they feel us out and—

Mr. HUGHES. I understand. I understand. I worked with informants myself for many, many years, and ran a lot of sting operations. So I have dealt with a lot of people over the years that we would use as confidential informants. And they are all going to lie to you. They often only tell you what they want you to know, or when you catch them in lies.

And up until the point that Mr. Palmer finally came clean on Vogel, at least at that point he still wasn't being honest with you about his involvement with a number of things he was involved in, including Vogel. Isn't that so?

Mr. SALDANA. I am not really familiar with all his involvement with Vogel.

Mr. HUGHES. How about you, Mr. Wagner, do you want to take a stab at that?

Mr. WAGNER. Oh, we knew he was lying about the arrest in Colombia. He had a friend out showing that there was marijuana there, and then he was suspect in that.

Mr. HUGHES. And you knew he wasn't being candid with you even with regard to the Vogel situation. Because he came in to deliver Vogel to you after Vogel had already been arrested. Isn't that so?

Mr. WAGNER. Correct. He was also there not counseled, and he was extremely afraid, not knowing what his constitutional rights may be, to further invent anything.

Mr. HUGHES. Is there any question in your mind that Mr. Palmer came to you because he knew it was a matter of time before he was busted?

Mr. WAGNER. I believe he probably had that in the back of his mind.

Mr. HUGHES. I have no doubt about it either. I mean the scenario is very clear.

Mr. Wagner, how long have you been in law enforcement?

Mr. WAGNER. Twenty-one years.

Mr. HUGHES. All right. There is no question in your mind, is there, that Mr. Palmer knew that it was a matter of time that he was about to be indicted because he obviously knew at that point when he came to you that Detroit was investigating him and Vogel, and that particularly after Vogel was indicted, he knew that he was close by because they were partners. Isn't that so?

Mr. WAGNER. That could have been in his mind, yes, sir.

Mr. HUGHES. All right. Now, Mr. Wagner, even when the Operation Intruder was off the ground, and that DC-6 was about to take off, you knew, in talking with Haas, because you have indicated to us that Haas indicated that you couldn't notify the Colombian au-

thorities or DEA in Colombia because he felt his life would be in jeopardy, he and Palmer and the others in this operation, if you did so.

And you knew, did you not, when that plane, that DC-6, took off from Miami, that it probably was going to go to Colombia and back into Mexico.

Mr. WAGNER. No, sir.

Mr. HUGHES. Well, Joe Haas—let me just recite to you what you were saying.

You said, "Joe, you cannot go." Haas, "We have to go." I'm repeating your testimony. "Joe, you cannot go." "I'm going to go." And that argument was over whether he was going to go, number one, without letting the Colombian authorities know, and, number two, all along he insisted that in order to try to keep the traffickers happy and to not expose himself, he had to comply with their orders which was for him to return that contraband into Mexico, isn't that so?

Mr. WAGNER. That wasn't his intention.

Mr. HUGHES. Oh, do you know what his intention was?

Mr. WAGNER. To come into the United States.

Mr. HUGHES. Oh, you know his intention?

Mr. WAGNER. I trust Mr. Haas. I believe that's exactly what he intended to do.

Mr. HUGHES. Well, I don't believe so, Mr. Wagner. I believe that all along Haas and our friend Palmer intended to go into Mexico. They had been to Mexico with your knowledge looking at airstrips. The traffickers expected to pick up the load of marijuana in Mexico. They in fact were in Mexico to receive that load. And when they took off, it appears rather clear that they had no intention of going anywhere except into Mexico.

Mr. WAGNER. He went into Mexico to look at those fields at my direction initially.

Mr. HUGHES. Yes. But you knew that the traffickers were in Mexico waiting for the load, didn't you?

Mr. WAGNER. Somewhere. I assumed it would be at that San Miguel strip.

Mr. HUGHES. Well, of course, you knew that. You knew where they were, and you knew that in order not to blow the cover, they were going to have to put that down in Mexico.

Mr. WAGNER. That is not exactly correct.

Mr. HUGHES. Well, I don't know how you can suggest that. I mean the record, it seems to me, is compelling.

Now, you impress me as a fairly seasoned investigator, and you have a guy on the telephone telling you he has to go because the traffickers are putting pressure on at that point. He has got 150,000 bucks of their money and they want performance. And their understanding was that they were going to go into Mexico, and their traffickers were at that airstrip in Mexico.

Now, where do you suspect when Haas and Palmer took off they were going to go? In the United States?

Mr. WAGNER. That's what they told me.

Mr. HUGHES. You can't be that naive.

Mr. WAGNER. They were going to fly over that strip. They were going to go to San Miguel but not land.

Mr. HUGHES. That is what you learned subsequently. That was the cover story.

Mr. WAGNER. That is what we discussed on the phone.

Mr. HUGHES. Now, Mr. Wagner, at no time does the record indicate that they ever intended to go anywhere except to Cartagena to—what is the airstrip, Santa Marta in Colombia, and back into Mexico. That was their grand design. Even those that had no reason, because they had no dealings with DEA, confirmed that it was a Mexican sting operation.

The independent evidence we get indicates it was always a Mexican sting operation.

Mr. WAGNER. I don't understand what you mean by Mexican sting.

Mr. HUGHES. In that the plane was to take them into Mexico and to get the traffickers after the goods were delivered in Mexico. And the testimony we have had, the independent testimony is that others on board the plane understood that the plane was to go into Mexico, not the United States.

So I don't know how you can suggest you knew that they intended to go into the United States.

Mr. WAGNER. Mr. Haas was in charge of that operation. He was the pilot in command. His agreement with me on the phone was that he would bring that load into the United States after which he carried out act 3 of his—

Mr. HUGHES. That is not what I understood your testimony to be. I understand your testimony to be that he wasn't to go.

Mr. WAGNER. Initially. He wasn't convinced of that. He was going to go any way. I couldn't just turn my back and walk away at that point. We had to salvage this operation.

Mr. HUGHES. What do you mean you couldn't walk away from it? You told him that he was not to go period.

Mr. WAGNER. But he went anyway.

Mr. HUGHES. Yes. But who was he working for? Why didn't you say, Haas, let me tell you something, I am going to have agents down there, I am going to have DEA and FBI there in Miami in 15 minutes. You are not to go. Why didn't you say that?

Mr. WAGNER. Because he told me—he was there at the airport, and he was leaving right then, at that moment.

Mr. HUGHES. Say, well, Haas, I want to tell you. You do that, and I am going to have them bust you when you arrive in Colombia, or I am going to bust you when you return. Did you say that to him?

Mr. WAGNER. I would never do that.

Mr. HUGHES. Well, I know. You obviously didn't.

But he violated your order. It was not an authorized flight, isn't that your testimony?

Mr. WAGNER. Correct. He knew I wouldn't do that.

Mr. HUGHES. Well—

Mr. HAMBRICK. Mr. Chairman, it wasn't authorized because we couldn't give him any protection in Colombia, and that is what the testimony earlier was trying to get out.

Mr. HUGHES. Well, it was not authorized because we are responsible to notify the Colombian authorities, correct?

Mr. HAMBRICK. That's my point, that the only way we could give him protection in Colombia is to notify the Colombian authorities that he was coming, to notify our office.

Mr. HUGHES. No. It is more than that. It is more than protection. It is a matter of comity between two countries.

We are obligated, are we not, by law to notify another country when we go in?

Mr. HAMBRICK. Yes, sir, we are.

Mr. HUGHES. So isn't that more basic than whether or not we jeopardize his life? I mean certainly we are concerned about the lives of these members of the crew. But the fact of the matter is that that law requires us to give another country notice when we go into their country for an operation of that nature.

The Drug Enforcement Administration has an excellent working relationship with countries around the world because we do operate on the level with them. And part of what we do is that we notify them when we have operations in their country such as this.

So it was an unauthorized flight. We made no effort, as I understand it, to try to stop the flight, and which basically suggests to me that you condoned the flight.

Moving on, there was a transponder onboard that plane. Why wasn't it activated?

Mr. WAGNER. I didn't know about that transponder until later after the trip was over. There was a U.S. Customs transponder on it that had been used on other operations in cooperation with Customs.

Mr. HUGHES. Was it activated after you found out about it?

Mr. WAGNER. Well, the plane was already in.

Mr. HUGHES. How about on the next flight when it made the flight into Colombia which returned the contraband into Detroit, was it activated?

Mr. WAGNER. I don't know, sir.

Mr. HAMBRICK. But we followed the flight all the way in and all the way back without him knowing it.

Mr. HUGHES. Did it occur to you at any time that that contraband just might end up in Mexico?

Mr. WAGNER. No, sir, not for 1 minute.

Mr. HUGHES. Never occurred to you even though they indicated that's what the traffickers insisted upon, even though you knew that the traffickers were going to be at this airstrip near San Miguel, it never occurred to you that that plane was going to go into Mexico?

Mr. WAGNER. Our plan was for it to come into the United States pure and simple.

Mr. HUGHES. I hear what you say your plan was, but you are saying it never occurred to you that they were going to carry out what the traffickers were insisting upon because, as I see it—

Mr. WAGNER. I trusted Mr. Haas completely.

Mr. HUGHES. Well, they were running kind of scared at that point when they took off because the traffickers were putting a lot of pressure on them.

Mr. WAGNER. The possibility existed because they did end up in Mexico.

Mr. HUGHES. The traffickers were putting more pressure on them than you were because they had \$150,000 of the traffickers' money and the traffickers wanted performance. They didn't want to hear any excuses. This is going to be a trial anyway because Palmer had to prove himself.

Mr. WAGNER. I work within the framework of the law. The traffickers don't have to. They never do. They work by murder, extortion, and torture.

Mr. HUGHES. Well, they do. They also work by their pocketbooks and they wanted some performance.

Mr. WAGNER. Mr. Cerna's family has a reputation for murder. Doc Adams cut off the fingers of an associate because he held back money.

Mr. HUGHES. Well, nobody quarrels with the fact that they are brutal. They would snuff out their lives in a minute if they thought that they were double-crossing them. And that occurred to Haas too, and Palmer.

Mr. WAGNER. He gave that to me on the phone. He was definite.

Mr. HUGHES. That occurred to them because they were putting pressure on them. They hadn't seen any performance.

When you learned that the load was going into San Miguel, Mexico, I gather that it was at a point of time when the plane was over Mexico from what they told you?

Mr. WAGNER. Yes, sir.

Mr. HUGHES. And within a matter of minutes probably before they landed.

Mr. WAGNER. I believe that to be the case, yes, sir.

Mr. HUGHES. Now, at that point, you knew that the plane was going to land in Mexico with 20,000 pounds of marijuana, did you not?

Mr. WAGNER. 18,000 to 20,000, yes, sir.

Mr. HUGHES. At that point, it was clear to you that we were going to have a problem probably at the border.

Mr. WAGNER. Yes, sir.

Mr. HUGHES. No question about that.

Mr. WAGNER. It was obvious.

Mr. HUGHES. Yes. Now, what time of the day or evening was that did you say?

Mr. WAGNER. It was in the early morning hours, 1, 2 o'clock, on the 18th.

Mr. HUGHES. Who did you call at that point at 2 o'clock in the morning to report this?

Mr. WAGNER. No one.

Mr. HUGHES. You went back to bed?

Mr. WAGNER. No, sir.

Mr. HUGHES. What did you do?

Mr. WAGNER. Waited for another telephone call.

Mr. HUGHES. When did that come?

Mr. WAGNER. Several hours later, Mr. Haas called me again.

Mr. HUGHES. When they were airborne?

Mr. WAGNER. Airborne, wheels up.

Mr. HUGHES. From Mexico?

Mr. WAGNER. On their way to McAllen.

Mr. HUGHES. McAllen. Now, when you met them at McAllen, you took them somewhere where you debriefed them?

Mr. WAGNER. To our office which was right next to the airport.

Mr. HUGHES. All right. What time did you finish debriefing them?

Mr. WAGNER. We talked to Mr. Haas immediately. I sent Mr. Palmer and the crew to a motel to get some rest. And then, later on that afternoon, we talked again, and later the next day we talked.

Mr. HUGHES. What time was it that you finished your initial debriefing?

Mr. WAGNER. The initial debriefing? That morning with Mr. Haas.

Mr. HUGHES. Ten, 11 o'clock?

Mr. WAGNER. Oh, I don't remember, sir, in the morning.

Mr. HUGHES. When did you first notify any other law enforcement agency that you had a problem?

Mr. WAGNER. That day, that same day. I notified our office and called the Eagle Pass office.

Mr. HUGHES. You notified the DEA office?

Mr. WAGNER. Yes, sir.

Mr. HUGHES. Did you ever notify Customs?

Mr. WAGNER. I left that to the Eagle Pass office to take care of that with their local contacts.

Mr. HUGHES. To your knowledge, did they do that?

Mr. WAGNER. I'm sure they did.

Mr. Chairman, I'm sure he did because on the phone with Scott Meadows, we discussed the fact that Customs—whether they had boats available and whether they were radar equipped to cover Amistad Reservoir, which is located on the Rio Grande River.

Mr. HUGHES. Who was it that notified Customs and/or Border Patrol at DEA; do you know?

Mr. WAGNER. Pardon me?

Mr. HUGHES. Who was it that notified Customs and/or Border Patrol that you had a problem?

Mr. WAGNER. DEA.

Mr. HUGHES. At DEA, who?

Mr. WAGNER. Scott Meadows. He's our resident agent in charge of the Eagle Pass office, and our resident agent in charge at the Alpine office is Eno Heller.

Mr. HUGHES. All right. Well, the information we have suggests that the only written confirmation that went out to the law enforcement community went out after a load of contraband, some 3,000 pounds, came across the border.

Do you have information that suggests written confirmation that there was a problem and to expect up to 20,000 pounds of marijuana to cross the border, was brought to the law enforcement community's notice before that following Monday, when we apprehended some suspects in a van coming across the border?

Mr. WAGNER. The seizure was some ten days later, I believe. It wasn't the following Monday. A teletype was prepared in McAllen and went to all our offices alerting those offices of the marijuana arrival and where it may come across; a complete description of how it was wrapped; approximate weights.

It was also sent, I believe, to ERAC to put it into their system so it was available to all law enforcement agencies.

Mr. HUGHES. I'm going to show you a teletype and ask you if that's the teletype that you sent, indicating that some 20,000 pounds of marijuana was in Mexico.

[Witness reads document.]

Mr. WAGNER. September 22 when it went out.

Mr. HUGHES. What time?

Mr. WAGNER. It went out at 1730 zulu hours.

Mr. HUGHES. At 5:30 p.m.?

Mr. WAGNER. Zulu.

Mr. HUGHES. All right. Now, can you tell us if you believe the teletype contributed to the seizure of, I think, 3,049 pounds of marijuana seized by the Border Patrol?

Mr. WAGNER. I have no direct evidence of that. This teletype was to alert every agency—DEA office—along the border that had liaison with other law enforcement sister agencies in their immediate area, to alert them.

Mr. HUGHES. Well, when you sent the teletype out, did you realize that the seizure took place that morning?

Mr. WAGNER. The seizure by the Border Patrol?

Mr. HUGHES. Yes. It took place that morning at 11:42 a.m.

Mr. WAGNER. It was my understanding that that seizure took place in October.

Mr. HUGHES. Well, I can tell you that the seizure took place that morning.

Mr. WAGNER. On the 22nd?

Mr. HUGHES. The 22nd.

Mr. WAGNER. Whenever I learned of that seizure, I immediately contacted the Border Patrol and had discussions with them regarding that seizure, if that's the date that it occurred.

Mr. HUGHES. Well, it's been confirmed to us that the seizure took place at 11:42 on September 22. That would be that morning you sent the teletype.

Mr. HAMBRICK. Mr. Chairman, there had been a verbal notification of everything in the teletype to the entire border—or that area of the border where we suspected this to take place. What we're referring to here is the hard copy documentation of what's already been given verbally to our offices and to the Border Patrol and to Customs.

Mr. HUGHES. Well, as I understand it, the only agency that was notified was the DEA.

Mr. HAMBRICK. I'd like to know which offices said they weren't notified, Mr. Chairman. We'd be happy to find out why they weren't notified. I know that when ERAC and Eagle Pass were notified, Mr. Meadows, when he found out that they didn't have the particular boat or what radar boats were available, the assumption was he had to have called and found out if those boats were available and told them why we were looking.

Mr. HUGHES. Well, the Border Patrol wasn't aware of it. The Border Patrol stopped this particular van because of the suspicious activity of some of the people in the van, noticed by the Park Police. That's the reason it was stopped.

It wasn't stopped because they were on notice that a load of marijuana had been dumped in Mexico and to watch out for the load coming across the border. They stopped it because the Park Police noted some suspicious activity and notified the Border Patrol. That's how they became aware of this van.

Mr. HAMBRICK. And that's entirely possible, Mr. Chairman.

Mr. HUGHES. Yes. What was the destination of the 20,000 pounds of marijuana? Do you know, Mr. Wagner? Where did the traffickers intend to move it?

Mr. WAGNER. I don't know. Our informants weren't able to learn that information.

Mr. HUGHES. Where does most of that stuff come?

Mr. WAGNER. Every city in the United States.

Mr. HUGHES. I'm talking about—was the United States the destination? They were going to bring it into our country?

Mr. WAGNER. Yes, sir. As far as I know, it was.

Mr. HUGHES. Well, you know that's where it was destined, don't you?

Mr. WAGNER. Yes, sir. That's true.

Mr. HUGHES. There's no question about that.

Mr. HAMBRICK. At that time, Mr. Chairman, or now? At that time, we assumed it was all destined for the United States. Subsequently though, in reading Mr. Cerna's statement and talking to him, he claimed that 2,000 pounds of it was to be sold in Mexico.

Mr. HUGHES. Well, that was after—

Mr. HAMBRICK. That's what I say. That was after the fact. That was not at that time.

Mr. HUGHES. I see. And was that to be sold in Mexico for import into this country?

Mr. HAMBRICK. We don't know. We're going by what Mr. Cerna said.

Mr. HUGHES. So, we could have ended up being the destination of the entire load?

Mr. HAMBRICK. Yes, sir, we could have.

Mr. HUGHES. Yes. Now, how much of this contraband did we ever confiscate? We've got 3,049 pounds of this one seizure at 11:42 a.m. on September 22, 1986. What else did we end up seizing?

Mr. WAGNER. There was approximately 4,000 pounds seized in Atlanta, GA; 2,500 pounds seized in Long Island; approximately 1,500 pounds seized in San Francisco. I believe that's a total of about 11,000 approximately.

Mr. HUGHES. Now, when was it seized? Let's start with Atlanta.

Mr. WAGNER. Atlanta was seized approximately September 6, 1987.

Mr. HUGHES. So, about a year later? Right? Is that what you're saying?

Mr. WAGNER. Yes, sir.

Mr. HUGHES. And you think that's the same dope?

Mr. WAGNER. Yes, sir.

Mr. HUGHES. And what makes you think that?

Mr. WAGNER. Mr. Adams said it was—the codefendant in the case.

Mr. HUGHES. With all the contraband that Mr. Adams is bringing to the country, he could tell you that the seizure in Atlanta was from this one shipment?

Mr. WAGNER. That's what he said, sir.

Mr. HUGHES. And he's believable?

Mr. WAGNER. That's what he said.

Mr. HUGHES. Where were the other seizures?

Mr. WAGNER. In Long Island. I don't have the exact date it was seized by the local authorities there.

Mr. HUGHES. In 1987?

Mr. WAGNER. I believe so; yes, sir.

Mr. HUGHES. How much was that?

Mr. WAGNER. It was 2,500 pounds, sir.

Mr. HUGHES. How do we know that was the same marijuana?

Mr. WAGNER. We were told by Mr. Cerna that it was, that it belonged to him.

Mr. HUGHES. Well, belonging to him and representing the same marijuana is two different things. How do we know it was from that shipment that was dropped in Mexico?

Mr. WAGNER. He said it was.

Mr. HAMBRICK. He said it was.

Mr. HUGHES. How about the other seizures?

Mr. WAGNER. The other seizure was the 1,500 pounds seized by Customs in an operation they had in San Francisco.

Mr. HUGHES. And when was that seized?

Mr. WAGNER. I don't recall, sir.

Mr. HUGHES. So, all told—was that the following year?

Mr. WAGNER. That was the same year—1987.

Mr. HUGHES. So, a year later, some of this marijuana appeared in these locations in this country? When was it brought across the border?

Mr. WAGNER. I have no exact dates, sir.

Mr. HUGHES. So, your testimony is, about half of the contraband, the 20,000 pounds, can be identified as being seized?

Mr. WAGNER. Approximately 11,000 pounds.

Mr. HUGHES. What happened to the other 9,000 pounds?

Mr. HAMBRICK. We're not sure, Mr. Chairman. There was an additional 6,000 pounds seized wrapped in the same style, same packing, at that particular airfield in Santa Marta. We can't tell you though, that that is exactly the same marijuana that came on this load, other than its markings and its wrappings being the same and very evidently old.

Mr. HUGHES. Well, that's how they were wrapping it anyway at that location in Colombia?

Mr. HAMBRICK. This particular group; yes, sir.

Mr. HUGHES. And of course, they were trafficking—they were doing a lot of trafficking, so that doesn't really tell us anything.

Mr. HAMBRICK. That's why I say I can't tell you for sure, other than it was old—whether it's part of the same load or not. There was a subsequent time in the investigation when we found out from Mr. Cerna that he still had 2,000 pounds on the airstrip in Mexico. We had Palmer offer to pick that marijuana up and fly it into our undercover ranch. Mr. Cerna told us that he'd talk to us later about it, but we never were able to consummate that part.

Mr. HUGHES. Well, during this period of time that you were dealing with Mr. Palmer, I understand that there were weeks that you had no contact with Palmer; is that correct, Mr. Wagner?

Mr. WAGNER. No, that's not correct, sir.

Mr. HUGHES. OK. How often would he check in with you?

Mr. WAGNER. I had daily contact, sometimes two and three times a day.

Mr. HUGHES. That was every day?

Mr. WAGNER. Yes, sir.

Mr. HUGHES. Every day?

Mr. WAGNER. Weekends included.

Mr. HUGHES. So, I'm talking about now the entire time that you were the control officer for Mr. Palmer.

Mr. WAGNER. If he was near a phone, he made the call.

Mr. HUGHES. I didn't ask you that. My question was, for a year and a half, you had daily contact with him?

Mr. WAGNER. Well, not every day, of course. There were some days we would skip, but usually, he was faithful to call every day, if at all possible.

Mr. HUGHES. And there were no times when you didn't hear from Palmer for a week at a time?

Mr. WAGNER. Never.

Mr. HUGHES. You're sure of that?

Mr. WAGNER. With the occasion when perhaps I was on sick leave for 3 days or 4 days. I don't recall any length of time such as you describe.

Mr. HUGHES. Well, there were times when you were on leave, times when you were on vacation. Even during those times, he checked in with you?

Mr. WAGNER. No. He would then call Agent Saldana or he would call—

Mr. HUGHES. How would you know where he was calling from?

Mr. WAGNER. Well, he would tell me.

Mr. HUGHES. And you believed him?

Mr. WAGNER. I had no reason not to.

Mr. HUGHES. What would stop Mr. Palmer from making trips on his own to Colombia and bringing marijuana back into this country?

Mr. HAMBRICK. I think, Mr. Chairman, we would have dealt with Mr. Palmer the way we would deal with any other cooperating individual. The minute we ever found that we were being betrayed in what they'd agreed to do with us—

Mr. HUGHES. Well, he betrayed you as a matter of fact, when he violated your order not to proceed to Colombia.

Mr. HAMBRICK. Had he not come directly and told us—there are two things that we looked at in this case—and this came all the way up to my level to decide whether to keep them as informants. One, they didn't have to tell us anything. They could have just gone and done it. They didn't do that. They did call at the last minute, so we were aware.

You could think—and these are things that we rationalized among ourselves—you could think, well, they did that to get protection. But they couldn't get any protection because we couldn't pro-

tect them in Colombia and we couldn't protect them in Mexico. So, they didn't do it to get protection from us.

Had they wanted to beat us on that load, they just simply wouldn't have notified us and gone ahead and done it. That's my belief. The other thing—

Mr. HUGHES. My question—and you can answer it, Mr. Hambrick—is, how do you know, under the circumstances, they're not making a fast trip down to Colombia and coming back into San Miguel or some other airfield in Mexico? How do you know that Palmer wasn't working on the side?

Mr. HAMBRICK. Well, we don't believe he was because of what position we were in, in our position undercover. It was evident that everyone was still trying to get everything off the ground. We've got Mr. Cerna and Mr. Adams constantly wanting to get their marijuana over.

Mr. HUGHES. Well, would you agree that when you are working with confidential informants, you have to watch them very carefully because they end up sometimes having a little business on the side?

Mr. HAMBRICK. Yes, sir, I do agree with that.

Mr. HUGHES. It happens all the time, doesn't it?

Mr. HAMBRICK. Frequently.

Mr. HUGHES. Yes. Unless you maintain sufficient control.

Mr. HAMBRICK. True.

Mr. HUGHES. Now, my question is, how can you tell us, with any degree of certainty, that he didn't have a little business on the side?

Mr. HAMBRICK. Because if he did, he couldn't be dealing with any of the people that we were dealing with, with him, or they still wouldn't be looking for their marijuana. We are confident, with the pressures that were being put on both he and Haas, to get the barge deal going, to set the airplane load up that went to Detroit, that there wouldn't be those pressures had he been getting other shipments.

This was also pretty much confirmed, I think, after the arrest, when we arrested the people and started talking to them and they had such complaints about the length of time it finally took to get the marijuana here.

You build up a degree—or a mutual feeling when you're working with somebody as to how they're working with you and it's something that almost all of our agent personnel are taught to be on guard for. We're not always perfect, but I think we have a good record.

Mr. HUGHES. You used him again after the Mexican flight. You used him again, although he violated your order, he lied to you initially, he lied to you up until the point when it was going to surface that he was about to be indicted. He was still lying to you.

Mr. HAMBRICK. I agree that he lied to us on the first two occasions, which is normal with any informant coming in until they finally know you're not going to be satisfied until you know everything.

The part about the lying to us with regard to the arrest of Vogel and that being the reason for him coming, I still don't know that,

Mr. Chairman. I still—that may be what caused him to come in. I don't know that for a fact.

Mr. HUGHES. Well, I don't either. But it seems to me that common sense would suggest that he was trying to save number one, Michael Palmer.

Mr. HAMBRICK. That could be true, however, these people that are involved are the ones we'd need or we'd never end up with the top people in these ranks.

Mr. HUGHES. Let me just, if I might, switch to the money. The money troubles me deeply.

Mr. HAMBRICK. I'm sorry, Mr. Chairman.

Mr. HUGHES. The money that passed hands troubles me deeply. It's rather clear that the traffickers were providing large sums of money to Michael Palmer—up to \$2.4 million over a period of time.

Mr. HAMBRICK. Of his and trafficker funds, Mr. Chairman.

Mr. HUGHES. Yes. Of which you had some degree of control over perhaps \$700—

Mr. HAMBRICK. \$71,000.

Mr. HUGHES. \$71,000 or thereabouts. But it seems to me that your testimony is that the only indication you had of what money was involved was what Palmer told you or what you later confirmed from Cerna and others that you might have talked to after the bust?

Mr. HAMBRICK. That's correct, sir.

Mr. HUGHES. Is it standard operating procedure for the Drug Enforcement Administration to permit traffickers to handle the money—permit the confidential informant to handle the money being provided to them by traffickers?

Mr. HAMBRICK. It depends on what it's being utilized for, Mr. Chairman. In this particular case, this wasn't a standard case. It was, in fact, just the opposite. It was very unique and one of the largest we'd ever done.

As I mentioned to counsel earlier, we had been asked by Palmer and Haas to furnish funds to cover these expenses. We told them we didn't have any more money to cover the cost of the investigation, that they were going to have to attempt to get it from the violators. Make them put their money up out front to pay the expenses. And they were pretty successful in doing that.

As I said, we got over a million of it ourselves, but we used that to offset the investigative expenses that we had, plus some of the expenses that they had.

Mr. HUGHES. Well, Mr. Palmer, as you know, has some real estate. He testified at one point that he had a million dollars in his tool box that he used for petty cash. He had large sums of money. Any doubt in your mind that that came from trafficking?

Mr. HAMBRICK. If he has it, probably not, sir. I don't know. I don't know of Mr. Palmer's past history.

Mr. HUGHES. Well, do you think we can take Mr. Palmer at face value when he tells us that that's all the money he received, this \$2.4 million?

Mr. HAMBRICK. With the moneys that we know that they were required to come up with themselves to offset the investigation. And the reason we believe this is primarily Joe Haas, but Joe Haas had been working for us for 17 years, and other than the Mexico

incident, which is why we felt he was truthful when he came back, I know—or we are told by them and believe them—that they had to put up money of their own to help offset the expenses.

Mr. HUGHES. Well, Joe Haas, you had a lot of experience with and you believed Joe Haas.

Mr. HAMBRICK. Yes, sir, and he qualified Palmer.

Mr. HUGHES. But Mike Palmer was a different kettle of fish. You had no experience with Michael Palmer. You subsequently found out that Michael Palmer was trying to shop his services to a number of different enforcement agencies. The FBI wouldn't touch him.

So, you're on notice that basically, he was different than Haas. You're on notice that he lied to you in the initial contacts and that he was lying to you up until the point that the Vogel case came down, when he had to own up to that. Isn't that so?

Mr. HAMBRICK. I can't tell you that that is so, no, sir. I can see what you're saying that you feel, but I can't tell you that's true. I can tell you yes, that he did not tell us the truth on the first two debriefings. The part about Vogel, I just don't know.

Mr. HUGHES. Well, I want to tell you. I don't believe much of what Mr. Palmer says.

Mr. HAMBRICK. Well, Mr. Chairman, we had to look at what we did in the case and what the results of the investigation were. And the results of the investigation are basically relying on what Mr. Palmer says and it's a good investigation and it's got good violators in it. They all pled guilty.

Mr. HUGHES. Well, one more line of questioning.

Mr. HAMBRICK. Yes, sir.

Mr. HUGHES. I don't think that there's any question but that the big fish were still out there, up to 500 pounds of marijuana, possibly, to be barged in. That was the bait, was it not?

Mr. HAMBRICK. Yes, sir. We wanted to make it as large as we could to get as many of the violators involved.

Mr. HUGHES. Well, that was the ultimate goal. I mean, even when Haas and Palmer and his crew took off, that was only preparatory to leading to the big bust.

Mr. HAMBRICK. No, sir. I had been briefed by Mr. Miley and Mr. Wagner that they didn't think the barge case was going to go at that particular time. That's why we were looking at the airfields of Mexico. It looked like the barge case was going to kind of fall apart because we couldn't get the parts together. We couldn't stay involved in it enough.

Cerna and they evidently came back and started pushing for the 18,000 to 20,000—whichever it was—pound load in Mexico. At that point, Mr. Wagner didn't feel—or Mr. Miley—that the barge case had a good chance of going.

Mr. HUGHES. Well, is it fair to assume that if, in fact, the shipment had come back into our country at Del Rio or at McAllen or some other strip in our country, that we might have been able to develop some cover for these traffickers for a little while, but that ultimately, we'd have to make some busts in that case because we'd have to store the contraband and we'd have to release it.

There would come a time when they would want performance once again. Is that a fair assessment?

Mr. HAMBRICK. You're entirely correct, Mr. Chairman. We could have carried on only for so long.

Mr. HUGHES. So, if that had happened, that certainly would have blew Mr. Palmer and his cover.

Mr. HAMBRICK. We could have attempted to stretch it out, but most likely, it would have exposed him. Yes, sir.

Mr. HUGHES. All right. That's a vote and I'm going to have to recess anyway, but we've completed your testimony. I don't know that we'll need your testimony any further. If, in fact, you can make yourself available for at least another hour, we'd appreciate it because it's entirely conceivable that we might have to bring you back again. And if that's the case, we want to do it today and try to finish up.

Mr. HAMBRICK. I think, Mr. Chairman, we'd prefer to stay and finish up.

Mr. HUGHES. All right, because I'd like to finish it today.

The subcommittee stands recessed for 10 minutes. We thank you for your testimony.

[Recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order.

TESTIMONY OF MICHAEL BERNARD PALMER, CONFIDENTIAL INFORMANT, DRUG ENFORCEMENT ADMINISTRATION, ACCOMPANIED BY AXEL KLEIBOEMER, ESQ.

Mr. HUGHES. Mr. Palmer, you're still under oath from last week's session. Counsel.

Mr. GREGORY. Thank you, Mr. Chairman.

Mr. Palmer, last Friday, I asked you about your marijuana smuggling career and you described it as a rather harmless and exciting activity. Do you remember that?

Mr. PALMER. I don't recall the exact—

Mr. GREGORY. You were discussing your earlier—

Mr. PALMER. You said a harmless and exciting activity. I don't have a recollection of that statement. Do you have a copy of the statement?

Mr. GREGORY. Well, let's put that aside for the moment. Regardless of whether you said it, is that—which the transcript, I believe, shows you did—is that your characterization of marijuana trafficking?

Mr. PALMER. No; it is not.

Mr. GREGORY. What about trafficking in cocaine. I believe you testified before the Senate, there was one and only one incident of your involvement in that; is that correct?

Mr. PALMER. Do you happen to have a copy of the testimony before the Senate that you're referring to?

Mr. GREGORY. Well, let me—

Mr. PALMER. My recollection is this—why don't I just answer the question.

Mr. GREGORY. Yes, why don't you answer the question. I was just refreshing your recollection. Perhaps it doesn't help.

Mr. PALMER. If you would like, I will give you what my recollection is of my cocaine activity.

Mr. GREGORY. Please do.

Mr. PALMER. It consisted of, at Vogel's request, a couple of 1 kilo transportations, along with his grass load, and then it culminated with, I believe it was somewhere in the area of 43 or 44 kilos of cocaine one time. After that, I told him I didn't want to have anything to do with it anymore.

Mr. GREGORY. How much were you paid for those transactions?

Mr. PALMER. \$2,000 a kilo is my recollection.

Mr. GREGORY. Did you mortgage any property to finance the Intruder Operation?

Mr. PALMER. Excuse me just a minute.

[Witness conferring with counsel.]

Mr. PALMER. My personal residence—I had a line of credit. It was a second mortgage. It was taken out on my personal residence and I used it to fund my activities during Intruder.

Mr. GREGORY. What was the amount of that mortgage?

Mr. PALMER. \$150,000.

Mr. GREGORY. What institution was that taken out with? What lending institution, if it was a lending institution?

Mr. PALMER. Excuse me just a moment.

[Witness conferring with counsel.]

Mr. PALMER. Mr. Gregory, I know that we addressed this issue in the testimony you took from me on August 8. At that time, I expressed, although I answered your question at that time, I expressed a reluctance to go public with it because it might identify my location. I would appreciate it if I would be extended that same courtesy now.

Mr. GREGORY. Did you execute a formal mortgage on this? When you say your mortgaged, is that literally and legally the case—a second real estate mortgage?

Mr. PALMER. Well, it was in place at the time. That was the utilization that I made of it.

Mr. GREGORY. Well, obviously, for the Chair to determine whether you answered the question, but I would make the observation that no one would make that linkage unless and except for your invitation to do so by your statement that it would identify your location. Let me move on.

Are you a wealthy man now, Mr. Palmer? Do you have a lot of material assets?

Mr. PALMER. I would say I'm not a wealthy man right now. As a matter of fact, I sold my residence this week under threat of foreclosure.

Mr. GREGORY. Do you still own an eight-unit building at 158 Northeast 41st Street in Miami?

Mr. PALMER. Yes, I do.

Mr. GREGORY. Do you still own Sunset Villas Number Three, Condo Building 14, at 4803 Northwest 7th Street, Miami?

Mr. PALMER. You're referring to a condominium—one bedroom condominium unit, unit 406. Yes; I do.

Mr. GREGORY. Do you still own—

Mr. PALMER. Along with the bank, if I may add.

Mr. GREGORY. Do you still own a single-family home, 256 Northeast 85th Street, Miami?

Mr. PALMER. No; I do not.

Mr. GREGORY. When did you dispose of that property?

Mr. PALMER. That property was sold, I believe, maybe a year, year and a half ago. The net of the sale was \$10,000 over and above the mortgage that was on it.

Mr. GREGORY. You still own an apartment on Edgewater Drive in Coral Gables?

Mr. PALMER. Excuse me just a moment.

[Witness conferring with counsel.]

Mr. PALMER. Excuse me, Mr. Chairman, and Hayden, with all respect, I don't really know what purpose your discussion right now is serving. However, if I may read between the lines, if you would like me to submit to the subcommittee a copy of my current net worth, I would be happy to do so.

Mr. HUGHES. We'll be very happy to receive that, without objection, but the questions are relevant and I direct the witness to answer them.

Mr. PALMER. Sure, Mr. Chairman, I'll be happy to answer.

Mr. GREGORY. The question was, do you own an apartment on Edgewater Drive in Coral Gables?

Mr. PALMER. Yes; I do.

Mr. GREGORY. Do you own a condominium on Mary Street in Miami?

Mr. PALMER. Yes; I do. A one-bedroom condominium.

Mr. GREGORY. We took a look at just Dade County. How about Broward County? Do you own property in Broward County?

Mr. PALMER. I own a unit in Broward County; yes, sir.

Mr. GREGORY. How about elsewhere in Florida?

Mr. PALMER. I own a small parcel of land in West Palm Beach.

Mr. GREGORY. Anything else?

Mr. PALMER. I have a piece of property on the west coast of Florida.

Mr. GREGORY. Collier County?

Mr. PALMER. No.

Mr. GREGORY. Anything else?

Mr. PALMER. No.

Mr. GREGORY. Do you own property elsewhere in the United States, outside of Florida?

Mr. PALMER. Yes; I do. I have a condominium unit in Colorado.

Mr. HUGHES. Where? I didn't hear.

Mr. PALMER. Colorado.

Mr. GREGORY. Anything else?

Mr. PALMER. No.

Mr. GREGORY. How about outside the United States? Do you own any property there?

Mr. PALMER. No; I do not.

Mr. GREGORY. How about liquid assets? Stocks? Bonds?

Mr. PALMER. I have no stocks. I have no bonds. I have a small brokerage account—

Mr. GREGORY. Now, you told us that—

Mr. PALMER. The value of which is about \$15,000.

Mr. GREGORY. You previously indicated that at the time of your arrest in Colombia, you had stored in, I think you said, a couple of tool boxes, something in the neighborhood of \$1 million cash in your home in Florida.

Do you have anything like that stashed anywhere now?

Mr. PALMER. No, I do not.

Mr. GREGORY. What was that money, by the way?

Mr. PALMER. Drug trafficking proceeds.

Mr. GREGORY. You indicated, Mr. Palmer, that while you were in prison in Colombia, you had a lot of time to think and decided to go straight and clean up your life and straighten out your life; is that essentially correct?

Mr. PALMER. Yes, it is.

Mr. GREGORY. And you proceeded to do that when you came back; is that correct?

Mr. PALMER. That was my endeavor when I returned; yes, sir.

Mr. GREGORY. I think in answer to the Chairman's question on Friday, you indicated that you, under miscellaneous income, declared something in the neighborhood of 50 percent of your drug trafficking income; is that correct?

Mr. PALMER. I believe that at the time the Chairman and I had a spirited exchange in that regard, I believe I mentioned to the Chairman that I really wasn't sure what it was, but that I had claimed an amount. I would just as soon say for the record that I didn't declare anything and then we could go from there.

Mr. GREGORY. You would as soon say for the record that you didn't declare anything?

Mr. PALMER. Yes. I would rather have said that because I did not have, at the time we had the exchange, I did not have my tax records available to me and I felt like I was sort of backed into a corner to agree with the Chairman with the thrust of what the Chairman's questioning was.

But please go ahead and continue.

Mr. GREGORY. Well, I'd like to straighten this out. Mr. Chairman, perhaps you could.

Mr. HUGHES. Let me pick it up if I could.

Are you saying essentially that you did declare some but you're not sure of the amount?

Mr. PALMER. Yes, I am.

Mr. HUGHES. Is that what it is?

Mr. PALMER. Yes.

Mr. HUGHES. And it could be more or less than 50 percent that we talked about?

Mr. PALMER. Yes, sir.

Mr. HUGHES. I see. Well, that's fair enough. You just haven't had a chance to check your tax returns, but they will show us that you declared a portion of the proceeds from drug trafficking each and every year?

Mr. PALMER. I don't recall, sir, at this time. I would rather say, if you don't mind, I'd just as soon say that I didn't declare anything and we can look at the tax records and see what they show.

Mr. HUGHES. Would you provide for us your tax returns—

Mr. PALMER. I would prefer not to get—Mr. Chairman, I'm here to tell the truth. I'm here to try to help the subcommittee and it's legitimate.

Mr. HUGHES. I'm asking you, will you make available your tax returns during the period of time in question?

Mr. KLEIBOEMER. Mr. Chairman, as I recall the question which you posed last Friday, involved a 10-year period.

Mr. HUGHES. That's correct.

Mr. KLEIBOEMER. And the answers which my client gave with respect to your question were for a 10-year period.

Mr. HUGHES. That's correct.

Mr. KLEIBOEMER. I'm not even sure that he has tax records for that period of time.

Mr. HUGHES. Well, I'm asking you to produce what you have.

Mr. KLEIBOEMER. I'll consult with him. I'll let you know whether we'll produce them without a subpoena.

Mr. HUGHES. Well, I will direct you to produce, for the subcommittee, your tax returns during the period from 1976 until 1986, inclusive. Counsel.

Mr. GREGORY. Following your return from Colombia, did you file any amended returns—

Mr. PALMER. No; I did not.

Mr. GREGORY. As part of your program to straighten out your life?

Mr. PALMER. No, sir. No, I did not.

Mr. HUGHES. We're going to have to recess for 10 minutes to catch this vote.

The subcommittee stands recessed.

[Recess.]

Mr. HUGHES. The subcommittee will come to order. Counsel.

Mr. KLEIBOEMER. Mr. Chairman, may I make an inquiry at this time?

My inquiry is this. I have with me a copy of the subpoena which was issued for the testimony of my client. It is not a subpoena duces tecum. It is a subpoena ad testificandum calling for him to appear in person. He is not required to produce any documents pursuant to that subpoena.

In addition, it was this subpoena which was the basis of the application by this subcommittee to the U.S. District Court for the imposition of his immunity. I have found no authority in the rules of this subcommittee for you to direct the production of documents. In fact, I'm under the impression that for you to do so, you would have to apply to the full committee. Am I correct in that understanding?

Mr. HUGHES. That's correct.

Mr. KLEIBOEMER. All right, sir.

Mr. HUGHES. Counsel will proceed.

Mr. GREGORY. Mr. Palmer, in the course of plea bargaining on your case in Detroit, was there ever any discussion or was it ever raised by the prosecutors that you be required to forfeit any assets you have as a part of the resolution of the charges against you?

Mr. PALMER. Sir, I don't recall that being part of the discussion. However, before we instituted the plea bargain negotiations, I voluntarily, without anyone's request, gave up the only piece of property I owned solely from drug-related funds and that was a condominium in Grand Cayman Island.

I offered to voluntarily give that up and then after my—I guess it was about a year and a half ago now, that I did. I gave it to the FBI.

Mr. GREGORY. Gave it to the FBI?

Mr. PALMER. Yes.

Mr. GREGORY. So, you held property in fee simple, no mortgage in the Grand Caymans and you gave that to the FBI?

Mr. PALMER. Yes, sir.

Mr. GREGORY. What was the value of that property?

Mr. PALMER. I believe it was a couple hundred thousand.

Mr. GREGORY. Who was the FBI person that you effectuated that donation with? Who represented the FBI in receiving that property from you?

Mr. PALMER. Well, the proceeds—it was sold and the proceeds—I don't recall the name of the individual that it was transferred to, but it was in Detroit.

Mr. GREGORY. When did that occur?

Mr. PALMER. Maybe a year ago. That's my recollection.

Mr. GREGORY. Now, was that in connection with the ultimate resolution of your case?

Mr. PALMER. No. I believe it was after my case was resolved. Here's what—

Mr. GREGORY. The case was dismissed, I believe, in October; was it not?

Mr. PALMER. Yes, but let me get back into it here so I can explain to you in the way that it happened.

I had—back when I had entered into the original plea bargain negotiations in Detroit, I reminded my attorney that I had a piece of property. It was actually owned by myself and one of the other traffickers jointly. And I said, well, you know, it came solely from our drug trafficking proceeds and I probably should give this up. Would you remind the U.S. attorney of it? He said he would and he did.

It wasn't brought up again until after the case in Detroit, I believe, was resolved and somebody from the FBI brought it up. I said, well, all we have to do is just go through whatever the motions are to hand the property over.

I said, we've already talked to the U.S. attorney about it and they got together and that was the end of it. We did it.

Mr. GREGORY. So, other than that, were there any attempts by the Government to require you to forfeit property?

Mr. PALMER. To my knowledge, no.

Mr. GREGORY. How much money did you make as a commercial airline pilot—your highest salary?

Mr. PALMER. A little over \$100,000 a year.

Mr. GREGORY. Now, did you have—are you independently wealthy—I mean, independent of the drug trafficking and your salary as an airline pilot? For example, did you inherit a substantial amount of money?

Mr. PALMER. No; I don't have an inheritance.

Mr. GREGORY. So, you kept your assets separate of the money you made from drug trafficking, which you estimated to be some \$3.5 million.

Only this \$200,000 property was, in any way, involved—

Mr. PALMER. My statement was this. It was that that piece of property was a piece of property that I knew we purchased solely with drug-related proceeds.

It wasn't a—I didn't look at it on my part as a magnanimous gesture, to turn it over to the Government or anything. It was just

something that I thought was due. I mean, it was bought solely with drug-related proceeds. I offered to give it up. I offered to give it up unsolicited.

Mr. GREGORY. Were any of the properties that you indicated here today that you own, bought wholly or partially with drug proceeds?

Mr. PALMER. Excuse me just a moment.

[Witness confers with counsel.]

Mr. PALMER. To the best of my recollection, they weren't purchased with drug-related proceeds. That's my recollection.

Mr. GREGORY. They were purchased?

Mr. PALMER. Were not.

Mr. GREGORY. Were not or were?

Mr. PALMER. Were not.

Mr. GREGORY. Were not. Thank you, Mr. Chairman.

Mr. HUGHES. You're telling us that none of the properties you've described here today was ever purchased, in any way, with the proceeds from drug trafficking? That's your testimony?

Mr. PALMER. My recollection is that, sir.

Mr. HUGHES. So, all the properties—

Mr. PALMER. No, no. I'm sorry. You've already—

Mr. HUGHES. With the exception of the property in the Bahamas, Grand Cayman Island, which you indicated was purchased solely with drug money, jointly with another trafficker, all the other property you've described here were purchased by funds from your independent earnings?

Mr. PALMER. Mr. Chairman, I can't—the way that you're posing the question, of course—I realize that you're putting me precisely on the spot for a yes or no.

Mr. HUGHES. I want to put you on the spot. I want you to—

Mr. PALMER. All I am saying is that my recollection is—if you would like me to examine them each independently and get back with your subcommittee, I'd be more than happy to.

Mr. HUGHES. Well, the question is very simple and you know what I'm trying to find out. I'm trying to find out if you used any drug moneys to purchase any of the real estate you've described here today.

Mr. PALMER. Mr. Chairman, it's very possible that some of my drug-related moneys may have been mingled with moneys that were used to purchase some of those properties. It is possible.

Mr. HUGHES. Isn't it possible that some of the moneys you acquired through drug trafficking went into each of those properties?

Mr. PALMER. No; it is not.

Mr. HUGHES. Which of the properties were acquired totally without drug money?

Mr. PALMER. I can't answer the question, Chairman Hughes. I really cannot answer the question at this time. If you'll give me some time to look into it, assign one of your staff members, I'll be happy to forthrightly go through my records and determine the answer to your question accurately.

Mr. HUGHES. Do you have any confidential bank accounts in any bank around the world?

Mr. PALMER. No, I do not.

Mr. HUGHES. What is the largest amount of cash you ever had on hand?

Mr. PALMER. The money that was in the tool box that you brought to our attention earlier.

Mr. HUGHES. Is that the largest amount of money you ever had at one time on hand?

Mr. PALMER. To the best of my recollection, yes.

Mr. HUGHES. You never had more than \$1 million that you had ready access to at any given time?

Mr. PALMER. Chairman Hughes, I don't know how much money was in the tool box. As I said, it was an amount in excess of \$1 million. I thought maybe \$1 million, a little bit over that. That was my statement. When I returned, the money was gone.

Mr. HUGHES. Now, in the 10 years from 1976 to 1986, approximately how many pieces of real estate did you buy?

Mr. PALMER. It's basically the real estate properties that you have pointed out.

Mr. HUGHES. Any others?

Mr. PALMER. There may have been. I only recall one actually. A piece of real estate in Broward County—a home.

Mr. HUGHES. That you sold during that period of time?

Mr. PALMER. Yes, sir.

Mr. HUGHES. I see. What's the total value, approximately, of those properties today?

Mr. PALMER. The net value—

Mr. HUGHES. The total value. I want the total gross value. All I'm asking for is your best estimate.

Mr. PALMER. Florida assesses property at their full value. I believe that the figure would be somewhere in the neighborhood of \$500,000.

Mr. HUGHES. Total?

Mr. PALMER. Yes, sir.

Mr. HUGHES. How about the Colorado condominium?

Mr. PALMER. That's worth about \$60,000.

Mr. HUGHES. OK. What are the total amount of the liens on the properties?

Mr. PALMER. Mr. Chairman, I can't speak to your question without having my records here.

Mr. HUGHES. Approximately.

Mr. PALMER. In the neighborhood of \$250,000.

Mr. HUGHES. \$250,000?

Mr. PALMER. Yes.

Mr. HUGHES. What is the total amount of cash that you have available to you now?

Mr. PALMER. In the neighborhood of \$40,000.

Mr. HUGHES. I see. Are you gainfully employed?

Mr. PALMER. Yes; I am.

Mr. HUGHES. What is the nature of your occupation?

Mr. PALMER. Mr. Chairman, I'd be happy to answer that to you in private. I don't think that saying it in public would do.

Mr. HUGHES. What is your approximate salary?

Mr. PALMER. In the neighborhood of \$35,000 a year.

Mr. HUGHES. I see. And now with that, you're providing for yourself and amortizing the mortgage, paying your taxes on what, six properties?

Mr. PALMER. The properties are rented, sir.

Mr. HUGHES. They're all income properties?

Mr. PALMER. Yes, sir.

Mr. HUGHES. What is the approximate income from the properties?

Mr. PALMER. I can't speak to your question, except to say that they basically cover the mortgages and other expenses and spin off a little bit of income.

Mr. HUGHES. You asked us not to identify the property where—your home.

Mr. PALMER. You've already done that, sir.

Mr. HUGHES. Well, the lending institution, where you have a mortgage on that property. Will you provide that information to us for the record?

Mr. PALMER. Mr. Chairman, I've already given it to your staff at my last interview.

Mr. HUGHES. Well, while we're talking about it, I'm interested in having a verified statement of the amount of income and the amount of disclosures for the period 1976 to 1986.

I can either get a subpoena duces tecum, which I'm prepared to do, or you can submit that information to me under oath.

Mr. PALMER. Mr. Chairman, if I may offer a suggestion, if you would assign staff to me, I'd be glad to work with your staff to arrive at the accurate answer.

Mr. HUGHES. No, what I'm asking you is, are you prepared to submit to us a sworn statement of your income and your expense picture, your deductions for the period 1976 to 1986, under oath?

Mr. PALMER. Yes, Mr. Chairman.

Mr. HUGHES. As well as the lending institution that put a lien on your property or you secured a mortgage, as well as the amount of that lien when it was placed?

Mr. PALMER. Yes, sir.

Mr. HUGHES. Under oath.

Mr. KLEIBOEMER. As part of the testimony here? Certainly, yes.

Mr. HUGHES. Well, I'm going to complete the testimony now, but I'm not going to excuse you from the subpoena. Until we receive the information we requested, you'll be under subpoena, but I'll conclude the testimony at this point. It's my expectation that once the information we requested has been submitted, then at that point, I'll re-examine the subpoena.

That concludes the hearing today.

Mr. PALMER. Thank you, Mr. Chairman.

Mr. HUGHES. That concludes the hearing of the subcommittee today. The subcommittee stands adjourned.

[Whereupon, at 3:45 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

ENFORCEMENT OF NARCOTICS, FIREARMS, AND MONEY LAUNDERING LAWS

WEDNESDAY, OCTOBER 5, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes, (chairman of the subcommittee) presiding.

Members present: Representatives Hughes, Mazzoli, Feighan, Smith of Florida, McCollum, Lungren, and Smith of Texas.

Staff present: Hayden W. Gregory, counsel; Edward O'Connell, counsel; Paul J. McNulty, associate counsel; Eric E. Sterling, assistant counsel; Jim Dahl, investigator; and Phyllis Henderson, clerk.

Mr. HUGHES. The Subcommittee on Crime will come to order.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography, or by other similar methods. In accordance with the Committee Rule 5(a), permission will be granted unless there is objection. Is there objection?

[No response.]

Mr. HUGHES. Hearing none, it is so granted.

This will probably be the last hearing of the Subcommittee on Crime in the 100th Congress. It is therefore fitting and proper that our witness be Jack Lawn, the Administrator of the Drug Enforcement Administration.

The business of DEA is the single-most important business of this Subcommittee. We authorize DEA's budget; we provide the legal tools, in the form of criminal laws and penalties needed by DEA to do its work; and we conduct oversight on the work of DEA in carrying out those laws and spending that budget.

It is this oversight function which brings us here today. Oversight is not an easy function for either the Congressional committee carrying it out or the executive branch agency which is the subject of the inquiry. It's always labor-intensive on the part of the Congressional body.

As Mr. Lawn knows, it can also become very labor-intensive on the part of the executive agency involved, which is called upon to identify, gather, and make available files and personnel needed by the Congressional body.

I want to thank Mr. Lawn publicly for the personal support that he's given to our work in this Congress and past Congresses. On a

number of occasions, we've had to work together to find a way to reconcile legitimate needs of the subcommittee for information with legitimate law enforcement needs for security of that information.

We've always found a way to meet both of these needs and I want to thank you, Jack, for your leadership in helping us find that way. I wish we could find a way to deal with the voting every 10 minutes these days.

Frequently, oversight involves detailed analysis of individual cases or enforcement programs. The cases chosen for such examination are usually the more important cases which may have involved the work of several agents over several months or even years.

Given the many duties of members of the subcommittee, and the limited staff available for this time-consuming function, we can only undertake this in a very few, carefully chosen cases. Even in its most positive form, oversight inevitably carries with it an element of fault-finding.

In order to determine how to provide the framework and resources to make things run more efficiently, it's necessary to look at examples where they maybe did not. Agencies sometimes resent oversight, seeing it as an exercise in second-guessing or Monday morning quarterbacking.

While I would not use terms with such negative connotation, I think there is an element of truth in them. I prefer to think of it in terms of examining game films to find out ways to improve next Sunday's performance, rather than as Monday morning quarterbacking.

However, to extend the analogy one step further, Congress needs to keep in mind when we figuratively view those game films in the course of conducting oversight, the fact that we are not Coach Joe Gibbs. Oversight must not become micromanagement nor should legislation.

We should not, for example, attempt to establish statutory staffing levels for the various DEA posts around the country or around the world. You may know that this Committee fought those efforts in the context of the omnibus drug bill. Everybody wanted to put some floor on their staff in their own backyard or have a special program for their region of the country. We can't micromanage in that fashion.

During the past 2 years, the subcommittee held hearings on DEA's Operation Intruder. That complex operation produced some excellent results in terms of bringing substantial offenders to justice and seizure of substantial amounts of contraband. DEA is to be commended for those excellent results.

At the same time, however, the operation raised for us some questions and concerns regarding the use and control of former traffickers and what sometimes approached a partnership role with law enforcement agents. It is one of the areas I would like to discuss with you today.

Our current oversight investigation illustrates another important function of Congressional oversight. This I will call protective oversight. Over the past two years, we have encountered a number of instances in which persons within our Government, but outside law

enforcement, were attempting to divert law enforcement from its proper role, to further their own particular agenda.

The Barry Seal Nicaraguan operation is a good example. The evidence convinces me that in that case, a very important, perhaps one of the most important law enforcement operations that I've seen over the years, was blown in furtherance of a purely political objective.

One has to wonder if something similar was taking place on a much larger scale regarding our relationship with General Noriega of Panama. I know Jack Lawn has viewed, with some irritation, the numerous disclosures which have come forth recently, indicating that a lot of people in our Government had information regarding the General's illegal activity. Jack Lawn has asked, with good cause, "Why weren't they telling me?"

A number of matters we intend to get into today may lead us into sensitive areas. When we reach those points, I propose that we move on to another topic and defer further consideration of the sensitive matters until we move into an executive session. Other subjects are of such sensitivity that the entire consideration of them must be done in closed, executive session.

In the interest of allowing public access to as much of our hearing as possible, we can defer all those executive session matters until we complete the public portion of this hearing, which I hope we can conclude today. So, we want to welcome you here today, Jack.

At this time, I recognize the Ranking Republican.

Mr. McCOLLUM. Thank you, Mr. Chairman.

We have been investigating matters that come under the oversight category for the better part of two years, though we've had only a few hearings based on those investigations. I think the Drug Enforcement Administration has been most cooperative under the circumstances with this, and at times, I think their burden perhaps has been very heavy to comply with some of our requests.

The bottom line of all this is the issue of the use of informants, the subject we have been exploring and perhaps what we will be talking about today, is very important. I think the job and the task of this subcommittee is oversight, not to Monday morning quarterback, as the Chairman said, but oversight. I think that the bottom line here today, that should be said regardless of what else is discussed, is that those two years of investigations have not shown widespread problems within the Drug Enforcement Administration.

In fact, to the contrary, I think the absence of more substantive responses and the lack of a need for more hearings are to the credit of the Drug Enforcement Administration. I do believe that we are very pleased overall that we have not turned up negatives.

You should be, in turn, pleased with that, Mr. Lawn. So, I'm not going to belabor the point. I just wanted to make my opening statement—the comment that while we may focus today on a narrow spectrum of our oversight, it is a very great thing that we do not have more issues to review or we didn't find more problems than we are discussing here.

Thank you.

Mr. HUGHES. I'm sorry to advise you that we apparently are going to have nine consecutive votes after this vote, which means

that we'll be voting for probably an hour and a half, unless we're able to get unanimous consent to take the votes every two minutes, in which event, it will shorten it by half.

So, we've inconvenienced you enough today. Can you tell us—would you like to reschedule for another day? Would you like to come back in an hour and a half? What would be your pleasure?

Mr. LAWN. Mr. Chairman, I can certainly come back in an hour and a half. I do have a 4:30 commitment, a 5:30 commitment, and a 7:00 commitment this evening, and I leave Washington, DC, tomorrow morning at 6:00 a.m.

Mr. HUGHES. So, if we're finished by 4:00, that would get you on to your 4:30 appointment?

Mr. LAWN. Yes, sir, it certainly would.

Mr. HUGHES. Why don't we plan on meeting back here at—will you be back in town next week, Jack?

Mr. LAWN. No, sir. I'll be gone next week. I'll be back a week from this Friday.

Mr. HUGHES. Would you stay on the Hill if we were to come back today? We're not sure how long it's going to take us. We're going to see if we can't get unanimous consent to reduce the time on those suspensions from five minutes to two minutes.

Mr. LAWN. Yes, sir.

Mr. HUGHES. Why don't we try to get back here, let's say, at quarter of three, or as close thereafter as we can? That would give us perhaps an hour.

Mr. LAWN. Good luck.

Mr. HUGHES. Thank you very much.

[Laughter.]

Mr. HUGHES. The subcommittee stands recessed.

[Recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order.

TESTIMONY OF JOHN C. LAWN, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC, ACCOMPANIED BY DAVID L. WESTRATE, ASSISTANT ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

Mr. HUGHES. Mr. Lawn, do you have an opening statement?

Mr. LAWN. No, sir, I do not.

Mr. HUGHES. OK. Then why don't we just get right into the questions.

What is the approximate percentage of DEA cases where you utilize confidential informants?

Mr. LAWN. That would be very difficult for me to come up. Over the past 20 years, we've used some 60,000 informants. We have over 4,000 active informants today.

Mr. HUGHES. Ten percent of the cases? Twenty percent of the cases?

Mr. LAWN. Oh, I would say considerably more than that, sir.

Mr. HUGHES. Fifty percent of the cases?

Mr. WESTRATE. Almost all cases have either informants or informant witnesses involved in them, sir. The same kind of problems are attached to managing each one.

Mr. HUGHES. So, it would be fair to say that the vast majority then of cases utilize either an informant or a confidential informant?

Mr. LAWN. Yes, sir, or a source of information.

Mr. HUGHES. Why don't you distinguish between the two?

Mr. LAWN. A source of information would be someone who furnishes information based upon an occupation. An individual, for example, who is a travel agent would furnish us information pertaining to travel. That would be a source of information.

An informant or a defendant informant—an informant is someone who is knowledgeable about criminal activity, wishes to cooperate with the Government. A defendant informant is one who is involved in criminal activity and who has agreed to cooperate with the Government.

Mr. HUGHES. About what percentage of the DEA's confidential informants are themselves former traffickers?

Mr. LAWN. Mr. Westrate indicates to me that probably half.

Mr. HUGHES. What kind of controls are generally exercised over confidential informants?

Mr. LAWN. We have a very stringent control over all the informants because, in effect, when an informant is involved in investigations for the Government, they in fact become agents of the Government.

Mr. HUGHES. Do you take their photograph, fingerprints?

Mr. LAWN. Yes, sir. In initiating an informant file, we get background information on the individual. We check the individual through our system. We check the individual through the FBI system.

We then run the fingerprints through the Identification Division of the Federal Bureau of Investigation, acquire a rap sheet, a synopsis of any criminal activity with which the individual was involved in the past. All of those things are done routinely.

Mr. HUGHES. Do you ever engage in any psychological testing, run them on a polygraph?

Mr. LAWN. Certainly the polygraph is used on occasion. Psychological testing—only insofar as an experienced agent, in dealing with the informant, questions motivation and the rest. But not a standard psychological test. No, sir.

Mr. HUGHES. How about surveillance of someone you're using as an operative? Do you attempt to watch them?

Mr. LAWN. Yes, sir, we do.

Mr. HUGHES. What are the rules? Are there written guidelines that an agent follows in maintaining controls over a confidential informant?

Mr. LAWN. Well, the standard rule, Mr. Chairman, is that an individual who develops an informant, as the manual indicates, our domestic guidelines indicate, the informant is not an informant of the particular agent. It is an informant of DEA. That informant may be turned over to other personnel.

When the informant is paid, the informant must be paid with more than one individual present. The supervisor or group supervisor, for example, has the responsibility to go out periodically and to meet the informant, to get background on the informant, to satisfy himself that the checks and controls that we have were viable.

Mr. HUGHES. Are the checks that you run an ongoing check or is that just a one-time check when you take on a confidential informant?

Mr. LAWN. There is an initial check and I believe there are also periodic checks. We don't, however, put a stop with a law enforcement agency—please advise us if you have any information on this individual.

Mr. HUGHES. What is DEA's policy when there is to be a transfer of money or a transfer of contraband, or some other major transaction—a meeting? What is DEA's policy relative to overseeing that?

Mr. LAWN. With the transfer of funds, the payment of an informant, in general, we require that we have two representatives of DEA present. If it's in a foreign environment where there is only one DEA representative present, we would have the DEA representative and another member of the embassy staff.

Mr. HUGHES. What are DEA's rules for payments of money to confidential informants?

Mr. LAWN. We certainly do pay for information and we pay not only from our PE/PI fund, but we also can pay from the asset fund. If the individual is responsible for giving us information which resulted in the seizure of assets, that individual can be paid from an asset fund.

Mr. HUGHES. How about where the confidential informant is under indictment?

Mr. LAWN. If an individual is under indictment and is in a position to furnish information to us, we cannot utilize that informant without first going to the prosecuting attorney. The prosecuting attorney then must seek the permission of the Department of Justice to use that individual as an informant—to authorize the use of that individual as an informant.

Mr. HUGHES. How about with regard to the monies paid to a confidential informant by a drug trafficker, which represents the proceeds from the trafficking transaction?

Is the confidential informant permitted to retain those funds?

Mr. LAWN. Yes, sir. The informant would be allowed to keep expense monies—personal monies that he expended in the course of cooperating with the Drug Enforcement Administration.

Mr. HUGHES. How about over and above expense money?

Mr. LAWN. A defendant informant would not be allowed to keep the money, but an informant, on occasion, might be allowed to keep some money that has been generated as a result of some illegal enterprise.

Mr. HUGHES. How is that decided? Suppose the money involved is \$2 million?

Mr. LAWN. It's difficult to deal in a hypothetical situation, but I cannot conceive of a situation wherein an informant would be allowed to keep \$2 million.

Mr. HUGHES. Does DEA attempt to maintain some account of what monies are being transacted to the confidential informant?

Mr. LAWN. Yes, sir, we do. In our informant files, we do track—we do keep track of the money that the individual has received.

Mr. HUGHES. How can you tell how much the informant gets?

Mr. LAWN. Well, if it's payment from the Government, certainly we have a record of that payment. The informant is required to

sign a voucher for the money received and that's standard procedure for law enforcement everywhere.

Mr. HUGHES. How about if it's from the trafficker?

Mr. LAWN. Certainly, an informant, in dealing with the trafficker, can conceal a certain amount of the assets received, but we hope that that's not something that happens regularly.

Mr. HUGHES. How does the DEA select targets for investigations in which confidential informants are used?

Mr. LAWN. In the case of specifically a defendant informant?

Mr. HUGHES. Yes. In the case of any targets, how does the DEA select targets for investigations by CI's?

Mr. LAWN. Well, if an individual volunteers to come forward to furnish information and tells us that they can furnish information on a given individual, we would first check to see where that individual would fall into our priority system—whether this was a Class I violator, Class II violator, Class III violator and so forth—where the individual falls into G depth.

If we have information or we receive information that an individual can furnish information on a major violator, certainly consideration would be given to using that informant to target that major violator.

Mr. HUGHES. One of the things that was troubling about the Michael Palmer case was, there was some question as to whether or not Michael Palmer actually selected the targets. One of the things that impressed me was the fact that Michael Palmer didn't select any of the people that he was previously dealing with. He targeted some new people.

Is that the general practice?

Mr. LAWN. No, sir, nor was it the case in the information furnished by Michael Palmer. You heard from the case agent, the case supervisor, the special agent in charge, and I think other people at DEA Headquarters, about the case.

Michael Palmer, as a defendant informant, created for us a window of opportunity in telling us individuals with whom he was in contact. It was we who selected those targets for our investigation.

Mr. HUGHES. Well, in the instance of Michael Palmer, his case was dismissed. He was never prosecuted nor convicted of his trafficking.

How many defendants would you say fall into that category—people who, once they're arrested and indicted for drug trafficking ultimately have their indictments dismissed because they're cooperating with the Federal Government?

Mr. LAWN. Our rules are very strict in this regard, in that if a defendant informant indicates that they want to cooperate with the Government, as I indicated, we must go to the prosecutor, who must go to the Department of Justice, to allow us to use that individual.

The only promise that we can make to a defendant informant is that we will bring his cooperation to the attention of the prosecutor and to the court in which his or her case may be pending.

Mr. HUGHES. I understand all you can do is recommend and advise the prosecutor or the U.S. attorney that you have a CI who

has been very cooperative, very helpful, and explain the kind of case that they helped you make.

But my question basically is, in how many instances do people like Michael Palmer, who was a pretty high level trafficker for a number of years—how many times do they find their indictments dismissed, where they become totally exonerated? Is that typical? Is that unusual?

Mr. LAWN. Yes, sir, that is unusual. That is not something that would happen routinely.

Mr. HUGHES. Are you aware of any policy to dismiss the cases against confidential informants because the Government cannot protect them in prison?

Mr. LAWN. No, sir. Quite the contrary, the manual is very clear. If we have an individual who needs protection, he can go into isolation, go into special security within the prison system.

Mr. HUGHES. In Michael Palmer's instance, Michael Palmer was totally exonerated even though he was a fairly high level trafficker and yet, some of the people at the lower end of the rung, the people that, for instance, just delivered money to DEA agents, not knowing that they were DEA agents, ended up being convicted and being sent to prison.

Is it fair to conclude that the low level trafficker's chance of going to prison is much higher than those that were substantial traffickers, but can in fact provide evidence or assistance to a law enforcement agency and thereby get a free pass?

Mr. LAWN. If in the judicial system it is decided that the information provided by a major trafficker is of some substance, that the court feels that the individual should not be prosecuted for a particular crime, that can happen. But that decision does not rest with the law enforcement agency, but rather with the courts.

That does happen certainly, but it's not a decision that we render. It is rendered by the attorneys involved, the prosecutors involved, and the Department of Justice.

Mr. HUGHES. It seems to me that if that's the policy, we're sending a very interesting signal to traffickers. If you're a high level trafficker and you can deliver somebody else, then you have a good chance of walking.

I wonder if that doesn't undermine the whole theory of deterrence if we permit that to occur. Does that give you some concern?

Mr. LAWN. Mr. Chairman, it certainly does give me concern. I can think back to the 1970's when there was a major investigation with which my office was involved in the Midwest—a very significant investigation. The individual who cooperated was a defendant informant.

The defendant later wrote a book about this particular operation and a chapter in that book included advice to defendants in cases, that if you feel that law enforcement is getting close to you, become an informant and then you will be protected by the Government. It is a concern. It is something that I think would concern all of law enforcement.

Mr. HUGHES. The other thing I saw in the Palmer case, but not just the Michael Palmer case—these people seem to be pretty sophisticated and they know how to shop from one law enforcement agency to another and they play one agency against the other.

Michael Palmer is a good example of being able to do that. He attempted to shop this case to the FBI. They turned him down. He tried to shop it to other agencies until he found the DEA to take his case. He knew he was about to be indicted. That's why he came to DEA. That also gives me some great concern.

Is there any communication among the agencies to try to prevent the kind of shopping that Michael Palmer engaged in?

Mr. LAWN. Well, yes, sir. You mentioned DEA and the FBI specifically. There is. When an informant or an individual is considered, we do a record check with the FBI. On the field office level, there is direct communication between DEA and the FBI.

Perhaps there is a reluctance among agencies to volunteer the fact that an individual is being considered to be an informant, both to protect the identity of the informant and, I guess, to protect the actual information that's being provided. But it is true that informant do agency shop.

Mr. HUGHES. Mr. Westrate.

Mr. WESTRATE. Mr. Chairman, I would say that—I would point out there's a paragraph in the formal DEA/FBI working agreement that precludes agency shopping.

In this particular case, it wasn't a matter of two agencies working the same person. It was a case wherein both agencies knew he was being worked. While he may have attempted to agency shop, he was not successful in that regard. The Bureau knew everything that we were doing. There were many meetings, perhaps testimony covered that earlier. So, while he did attempt to agency shop, he was worked by one agency with the knowledge of the other.

Mr. HUGHES. We have information that the FBI turned him down, didn't feel that he was reliable enough to handle, and expressed some concern to the Customs agency, where he was attempting to shop his case, also.

Mr. LAWN. I believe Mr. Palmer testified that he, in fact, worked for the Customs Service prior to cooperating with DEA. I can certainly follow up with the FBI to determine if that's the case. I heretofore had not heard that.

Mr. HUGHES. I have a number of other questions, but I'm going to yield to the gentleman from Florida, Mr. McCollum, at this time.

Mr. MCCOLLUM. Thank you very much, Mr. Chairman.

Mr. LAWN, how would drug law enforcement be affected in the country if DEA discontinued the use of confidential informants altogether?

Mr. LAWN. It would have an extremely crippling blow on DEA, on law enforcement in general, the techniques used by law enforcement very often in initiating our investigations, where it is most difficult to penetrate organizations.

We must use the strategy wherein we will find an individual who is involved in the organization, not at the top level because the top level generally is isolated from the investigator, receive cooperation from that individual with the promise that we will bring such cooperation to the attention of a prosecutor and thereby work our way into the organization.

Short of that, it would be impossible for us to penetrate some of these organizations. As you know, knowing drug enforcement as

well as you do, we have a very small number of agents involved—1,800 agents domestically, working enforcement.

Without using the thousands of informants that we use, it would be impossible for us to devote that much time to penetrating organizations. We could still effect arrests, to be sure, arrests on the street corner, but they would not have the impact that penetrating major organizations does.

Mr. McCOLLUM. If it takes bad guys to get bad guys, as it apparently does, what are the criteria that DEA supervisors use to determine whether to use a known trafficker for the confidential informant purpose?

Mr. LAWN. In general, Congressman, I would say you look at the individual, the scope of that individual's own trafficking, and weigh that against what that individual could do to furnish information to bring you to a higher level of the trafficking organization.

Mr. McCOLLUM. Well now, is it fair to say that DEA is lax in its supervision of a cooperating trafficker in order to make a big bust? I mean, that's been a characterization that we've heard somewhat here.

Mr. LAWN. No, sir, that is not true. I think the general rule throughout law enforcement—and I think I can speak about law enforcement in general—nothing can get an individual investigator in trouble quicker than can an informant. So, it is imperative that law enforcement have very stringent controls.

We try to exercise those controls as strictly as we possibly can, because as I mentioned earlier, when we have an individual cooperating with us, that individual becomes an agent of the Government.

Mr. McCOLLUM. Well, throughout the time we've looked at this Intruder case, there's been a hint in the air that Michael Palmer ripped DEA off, in essence.

Do you believe he did?

Mr. LAWN. No, sir, I do not. From the testimony of the agent, the group supervisor, the agents in charge, people in whom I have great confidence, they have given me their assurances, have given DEA Headquarters their assurances that Michael Palmer did not control the DEA investigation, that we were in control of what Michael Palmer was doing.

Mr. McCOLLUM. Well, there were times during the testimony—there was a lot of it here the last few days—where he discussed making a pass at a particular site where he was supposed to stop, then going by it, and not giving the kind of assurances that some of your agents really wanted to have about what he was up to at the time.

I'm sure you followed this. I'm sure you knew the case before it came over here and you've followed it since then. Is the general activity of Palmer in this regard typical of confidential informant situations and their relationship to agents? Is this kind of experience where informants go out on their own and then make a judgment call and you guys have to live with it typical?

Mr. LAWN. No, sir. We believe, as you heard from the testimony of our personnel last week, that Palmer was under very strict controls. Certainly, in the ideal world, we would prefer to have even tighter controls, but in the real world, we thought our controls

were tight. In executive session, we can actually talk about some of those.

Mr. McCOLLUM. Again, I'm not interested in executive session material. I hope you will continue to understand that.

But is it true that he did take off, as he indicated to us, and some others did, on a trip down to Latin America and was really already in the air before your fellows really were aware that he was going? I mean, some of your people were in here testifying to it, as I heard it.

Mr. LAWN. Yes, sir. That, in fact, was true. In dealing with informants, they're not under house arrest and certainly that was the case here. But there are aspects of this particular incident that we can discuss in executive session.

Mr. McCOLLUM. Anyway, from your overall perspective, without again going into that, no real ill came of this and the bottom line was, this was a successful case, from your standpoint; is that correct?

Mr. LAWN. Yes, sir. It was a most successful case and one in which we felt we had good control. It wasn't perfect, no, sir, but we live in an imperfect world.

Mr. McCOLLUM. Well now, is it true that the people arrested in the Intruder case were not really big traffickers? That's sort of been implied here, too.

Mr. LAWN. No, sir. I think that the Intruder case enabled us to, at least temporarily, dismantle a major marijuana trafficking organization in at least four cities, to seize a large quantity of marijuana that otherwise would have been on the streets of our country, and there were, I believe, 38 arrests effected, and there were 12 or 13 individuals who are currently in jail.

Mr. McCOLLUM. Now, of those 38 people who were arrested, were they big traffickers, or small fry in this whole process?

Mr. LAWN. My sense, sir, is that they were involved in the upper level of marijuana trafficking in large cities.

Mr. WESTRATE. Sir, I think we have to look at the objective of the Intruder investigation, which was not just to make a seizure of marijuana. We wanted to take out these distribution organizations which are the first distribution step within the United States. So, they are the senior-most trafficking groups within this country—clearly, major people, particularly the organization in Atlanta and the one in Miami.

So, we wanted to extend the investigation. We inserted the agents in such a way that they were involved in the transportation aspect, providing a service to the organization to transport and deliver the marijuana out to these groups so we could arrest them. That was our objective—to work backward towards the source and also to work down to eliminate the major organizations within the U.S.

Mr. McCOLLUM. But the bottom line is that there were some big fish, a couple of big fish obviously, at the very source, you never got; is that not true?

Mr. LAWN. Yes, sir. We certainly dismantled or delayed organizations within the United States. Did we impact upon the marijuana trafficking in Colombia? No, sir, I can't say that we did.

Mr. McCOLLUM. But you were still happy? On the scale of ten, this was a high scale of success, in your judgment, for what your objectives are generally; is that correct?

Mr. LAWN. Yes, sir. This was a high profile investigation and we were satisfied that we accomplished most of what we wished to accomplish.

Mr. McCOLLUM. You don't, despite the desire to do it, you don't get a chance to really crack into that Colombian group at the top level very often, in any event; is that true?

Mr. LAWN. No, sir, that's accurate. That's accurate.

Mr. McCOLLUM. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from Texas.

Mr. SMITH from Texas. Thank you, Mr. Chairman.

Mr. LAWN, I have a couple of questions for you. The first is, what precautions does the DEA take to assure their confidential informant is not continuing to traffick in drugs while cooperating with the Government?

Mr. LAWN. As I had indicated, Congressman, when an individual either comes forward or is approached, agency checks are made—the criminal agencies—the FBI, DEA records. The individual is advised that if he is involved in criminal activity, that he will be prosecuted for that criminal activity. At no time, in my 26 years, have I ever heard of our giving anyone a pass, an individual a pass to commit crimes because he or she has volunteered to be an informant.

Mr. SMITH from Texas. My next question is, what suggestions do you have for how Congress can carry out its oversight responsibilities without being harmful to the fulfillment of your agency's law enforcement responsibilities?

Mr. LAWN. As the Chairman indicated at the outset, oversight is very important and I believe that program oversight is critically important—to look at a program to determine whether this is the course that the Congress and, therefore, the citizens of the United States like to see us taking.

I do, of course, have concerns about furnishing information from ongoing investigations and from closed investigations, information which may identify informants, specifically, in this case, with the thousands of man hours that we put into furnishing information to the subcommittee. That did not happen, but it can happen and before other committees, this in fact has happened. The information somehow is leaked, which jeopardizes an undercover operation or jeopardizes an agent who is operating undercover.

Mr. SMITH from Texas. I trust that you don't feel that any part of our investigation that has been conducted by this subcommittee has done that.

Mr. LAWN. No, sir, because if I thought it had, I would have immediately gone to the Chairman and he would have heard our concerns.

Mr. SMITH from Texas. OK, very good.

My last question is, there's often an apparent tug between national security and drug law enforcement. I just wonder, based upon your experiences, what your thoughts are regarding the balance between drug law enforcement and national security.

Mr. LAWN. I certainly believe that the epidemic problem we have with drugs is, in fact, a national security issue. I think NSTD-221 addresses the fact that it is a national security problem. We can look at the violators in our country. They cross the spectrum. We have individuals who have worked in national security.

I need only turn, for example, to an individual—Christopher Boyce, the son of an FBI agent, who worked in a very high profile classified job. In order to satisfy his heroin habit, he stole and sold secrets to the Soviet Union. This is only one example, but the problem is one that is a national security problem.

Mr. SMITH from Texas. Mr. Lawn, thank you for testifying before us today. Mr. Chairman, I don't have any other questions. Thank you.

Mr. HUGHES. The gentleman from Florida, Mr. Smith.

Mr. SMITH of Florida. Thank you.

Jack, it's good to see you again. I'm getting very familiar with your assistant, Mr. Westrate, who comes to see us from time to time.

In yesterday's Washington Post, there was an article apparently documenting the difference of opinion that you have with the State Department, which is proposing to shut down part of the embassy staff in Panama and you apparently would be part of that shut down staff. The DEA would then lose its office, so to speak, in Panama.

Is that correct? Is there a contentious issue here between you and the State Department?

Mr. LAWN. Was the article correct? The article did have some particles of truth in it in that there is an issue pending about U.S. personnel leaving Panama. The Attorney General has asked us to make recommendations—all agencies—to make recommendations. I have made such recommendations to the Attorney General, and I believe the Attorney General will be forwarding his recommendations to Secretary Shultz.

Mr. SMITH of Florida. Well, can you tell us at this point how many agents you have in Panama?

Mr. LAWN. We currently have two agent pilots, two agents assigned in Panama and an intelligence analyst, I believe.

Mr. SMITH of Florida. And are you currently working on any operations jointly with the Panamanian government?

Mr. LAWN. I'm sorry, sir.

Mr. SMITH of Florida. Are you currently working on any operations jointly with the Panamanian government?

Mr. LAWN. Yes, sir, we are.

Mr. SMITH of Florida. Do they have the knowledge and consent of General Noriega?

Mr. LAWN. I have no idea, sir.

Mr. SMITH of Florida. You don't know?

Mr. LAWN. No, sir.

Mr. SMITH of Florida. According to the State Department in the 2013 Report, which is the report required by Congress in last year's law that mandates having a 6-month update on corrupt governments, corrupt government officials and the like—according to the State Department, General Noriega doesn't exist.

There is no corruption in Panama, according to them, because General Noriega is not a *de jure* head of government. Since former president or the current president put out of office President Delvia, removed Noriega before Noriega removed him, he's no longer *de jure* and therefore, as a *de facto* head of government whom we don't recognize, we don't have to report on him.

I'm going to ask you a question and I would like to get an answer. I have yet to get an answer from anybody. The answer we now get from this Administration and not you, is that he doesn't exist and we don't have to get a report on him because he's not, in fact, part of the government, which, of course, is a fiction too stupid to even, as far as I'm concerned, give credibility to.

Do we have sufficient evidence, as far as your agency is concerned, to prove the indictment that General Noriega suffered back in February of this year?

Mr. LAWN. Sir, I personally reviewed that indictment. I certainly believe that there was sufficient information for that indictment to be returned. I continue to believe that. I think were Noriega available in the United States, that we would have a successful prosecution of that individual.

Mr. SMITH of Florida. Of course, we haven't been able to successfully prosecute him and we don't anticipate that in the near future he's going to surrender himself to the jurisdiction of the United States.

But do you believe that it is incumbent upon the United States, for even the reasons that we all want and that is to involve ourselves in trying to stop the drug trafficking, the drug trade, the money laundering, et cetera—do you think it's in the best interests of the United States to continue to deal with Noriega or his government, given the fact that he is under indictment and that he has been such a contentious issue for the United States?

Mr. LAWN. That certainly is a difficult issue. When one looks at it in isolation of this Government dealing with him, certainly we should not be dealing with Noriega. He has been indicted. Does that mean we should not be dealing with a country where we know there's corruption? There is corruption in every country in which we are assigned, including corruption in our own country.

I believe that at a prior hearing, I read a portion of a summary prepared by a country attaché and if I could, I'd like to take a moment and read that, sir, if that is appropriate. This is an end of tour report written by a country attaché.

His end of tour report stated:

Police corruption is endemic in this society. The government pays extremely low salaries, less than such and such per month for privates, and not much more for generals. Yet, it is common for police to drive luxury cars, to own multimillion dollar homes. Corruption is not limited to the police. It is, in fact, widespread throughout all government service jobs. Furthermore, it is a way of life in this country that has been going on for hundreds of years and the general public, more or less, expects it.

I, at a meeting of 11 country attachés, read that paragraph and I said, would those of you who find that this describes your country, please stand. All 11 country attachés stood. I would say if I would read it in any other part of the world, the situation would be the

same. If it were read to me, I'm afraid I would also have to stand in representing corruption in the United States.

Mr. SMITH of Florida. You believe that the corruption in this country is as endemic as the corruption in Mexico or Panama?

Mr. LAWN. No, sir, I do not.

Mr. SMITH of Florida. Well, that's what troubles me. Mr. Westrate, in testimony before my task force on foreign affairs last week, testified that we are indeed still working cases or cooperating—or Panama is cooperating with us on drug interdiction efforts.

But you acknowledge that there's corruption and you acknowledge that Mr. Noriega is at least, was rightly indicted, given the information we have and which we used to make that indictment. Do you believe it's in the best interest of the United States to continue this kind of cooperation with a government that when we get or they seize anything, we have no idea whether it's done solely to satisfy us and how much may still be coming into that government or individuals in that government by way of illegal deals being made with traffickers, with money launderers, with some of the Colombia Medellin Cartel people, which has been documented previously?

I don't understand. Don't we give Mr. Noriega a sense or at least a presumptuous cloak that other people will look at and say, if he's so dirty, why are you dealing with him?

Where does it leave us in terms of the perception of the United States, in its real efforts to fight this drug war, if we continue to maintain our office in Panama and continue to deal with the Panamanians, whose leader we acknowledge, who some in this Administration want to make him go away, whose leader we acknowledge was rightfully indicted and, as far as we know, hasn't cleaned up his act?

Where does it leave us?

Mr. LAWN. It certainly puts us in a position where we can back off and say we will accept no cooperation from Panama and therefore, shut down the potential of receiving very critical intelligence information that can assist all of us.

Mr. SMITH of Florida. But isn't that information suspect? This is the point. How can we possibly verify the literal accuracy of information that we get from people that work for General Noriega?

Mr. LAWN. Because, sir, when information is received, it's acted upon, if it can be corroborated. If we receive information from individuals in Colombia about a shipment going through a country like Panama, and then we have an individual from the PDF say that they have developed information about a shipment, we can see that that information has been corroborated by someone else and therefore, it gives some credibility to that information.

I think one of the most important things that has happened in international drug law enforcement was an initiative called IDEC, the International Drug Enforcement Conference, where in the month of August, we had 20 Latin American countries working with us on a joint enforcement effort in their countries. It cost no one any additional money. The United States didn't put any additional money into these countries.

One of the countries that worked very closely with a neighboring country was Panama, which worked very closely with Costa Rico.

They were part of the IDEC initiative and they enjoyed great successes in enforcement activity with Costa Rico on that effort.

Should we close our eyes to the fact that there is cooperation among countries? I don't think we can do that.

Mr. SMITH of Florida. So, in your best estimate, having Panama participating in an IDEC operation, which is what happened, and at the same time, acknowledging that the leader of Panama is corrupt, is under indictment, and if he was brought here, you believe he could probably be tried and convicted because you believe in the evidence that led to the indictment—you think that that is a valid position for the United States to take?

Mr. LAWN. Well, I think I have to weigh the alternative. The alternative is not to work in any countries where we know there's corruption and then we could all sit at home and play bridge.

Mr. SMITH of Florida. Well, I didn't say we shouldn't work in any country or on any country where we think corruption exists. My problem is, in giving the perception to other countries that we will indict their leaders and then go about our business as if nothing happened. So, we don't happen to talk to Noriega.

We talk to all the people who serve under him at his pleasure. He is, after all, not a duly elected democratic leader. We have to assume that some power that he maintains is maintained through other than democratic process means. And what, for us, is the benefit? Could we do it any other way, other than comporting with that government?

For instance—let me give you an example. In 1986, there was a DEA-controlled flight from Bolivia to Roanoke. The cocaine on that flight was about 750 pounds. The PDF ultimately, after it passed through Panama, kept about 52 pounds of that cocaine. Now, they seized 50 some odd pounds—PDF—the same people you now work with.

You said that they had kept 52 pounds as a representative sample.

Mr. LAWN. Yes, sir.

Mr. SMITH of Florida. And that leaves the remaining 700 pounds for the controlled flight. Can you tell me if it's standard operating procedure to leave about seven or eight percent of the cocaine of a seizure for a representative sample with a group of the type of the PDF, where we probably could speculate with reasonable assurance of being right, that that cocaine would probably wind up in the hands of—either being used by users or being sold by people?

Mr. LAWN. Yes, sir.

Mr. SMITH of Florida. I'm curious. This is a mystery to me how we can claim Noriega is a bad guy, but everybody else under him is not and yet, we know that he has to have people working for him in order to do the deals he does.

Mr. LAWN. Let me, if I could, I would like to explain that.

Mr. SMITH of Florida. Sure.

Mr. LAWN. As you indicated, there was a case in Roanoke, Virginia. The individuals told us that a shipment of cocaine could be brought into Roanoke and it was picked up—752 pounds. The plane landed in Panama. As is the law in Panama, 752 pounds was seized by the government of Panama.

We explained to the PDF that based upon the conspiracy case we had going, that it was important for this shipment to go through so that we could effect the results in Roanoke, Virginia, and the PDF released to us 700 pounds.

They had indicated that they were going to retain 52 pounds of that shipment so that they could take enforcement action against individuals who were under investigation in Panama. They allowed us to take that shipment to Roanoke. It was delivered, we made the arrests——

Mr. SMITH of Florida. You made a case on this end?

Mr. LAWN. Yes, sir. They, in turn, followed up on their investigation, found two individuals in Panama who were part of this conspiracy, and shipped those individuals to the United States to face prosecution on the conspiracy because there is no conspiracy law in Panama.

Mr. SMITH of Florida. And DEA agreed? Now, whose request was it and whose idea was it to keep the 52 pounds?

Mr. LAWN. The government of Panama made that request so that they could pursue their investigation.

Mr. SMITH of Florida. Did they ever make a case against these people?

Mr. LAWN. Yes, sir. They made the arrests and sent the two people to the United States for prosecution in the United States.

Mr. SMITH of Florida. Do we know what happened to the 52 pounds of cocaine?

Mr. LAWN. Yes, sir. The 52 pounds of cocaine remain in——

Mr. SMITH of Florida. The evidence locker in Panama.

Mr. LAWN [continued]. In the evidence locker. It was recently—the evidence locker was recently visited by two of our agents. They did a field test on the cocaine. The 52 pounds remain in the evidence locker in Panama.

Mr. SMITH of Florida. And those two men were convicted, were they, in this country? The ones that were sent here?

Mr. WESTRATE. Yes, sir. And I think that case is important because it's the Suarez case out of Bolivia. This is one of the major, major cocaine traffickers on the level of the Medellin Cartel members. We've been trying to get a good U.S. indictment for years and years. I think it illustrates one of the reasons why sometimes it's good to have a presence because often, these major investigations transit many countries en route, Mr. Smith, and this is an example of that, where it was to our benefit to be positioned to work out this cooperation.

It also is important for us to be positioned in places sometimes to run informant networks, for example, things that might be very difficult to do from somewhere else. So, I would like to point out to you that our eyes are wide open in this relationship. We watch everything that we do very carefully and we have certainly made some adjustments, which I can't go into in this forum, as to what we're doing.

Mr. SMITH of Florida. The Chairman is indicating that my time is up, but if I could just ask you, on that point. In the United States, would the evidence now have been disposed of, under normal operating procedures?

Mr. LAWN. No, sir, not if there is a fugitive involved or if there is an appeal involved. Fortunately now, under the Attorney General's guidelines, we can begin to destroy bulk evidence, but we must retain a representative sample.

Mr. SMITH of Florida. What is the guideline on a representative sample?

Mr. LAWN. There's an actual chart on what is required in court. I don't have that information.

Mr. SMITH of Florida. Well, if you had a 700-pound seizure or a 750-pound seizure, would you keep 50 pounds, under normal circumstances?

Mr. LAWN. If it were up to the prosecutors, we would keep 752 pounds, because they like to see powder on the table.

Mr. SMITH of Florida. That's not what I asked you.

Mr. LAWN. For the mandatory minimums, I don't know precisely how much. Certainly it would not be ten percent of the amount.

Mr. SMITH of Florida. Right. My understanding is that 52 pounds is way over what you would need as a representative sample for making that case or keeping it for a fugitive who is still out, et cetera.

Now, your people went down there and field tested it, took photos of it, but at some point in time, we don't have any control over that. That stuff could disappear. Why is it that we don't basically try to get them at least—and I know it's their jurisdiction—to remove most of that? I mean, I don't like the idea of cocaine sitting in the evidence locker in Panama, frankly. My belief is going to be, at some point, it's going to fall in the wrong hands and be disposed of the wrong way by sale.

Mr. LAWN. If I could respond in this way—I was in another country in South America several years ago. The head of the law enforcement agency asked if I would go to lunch to discuss drug law enforcement with him. I said I was scheduled to go out and see a cocaine burn—all the cocaine that had been seized the year before. I said I would like to go out and see how you dispose of cocaine because the disposition of drugs is very important to us. And he said, well, Mr. Lawn, you can go do that if you wish, but this is the same cocaine we burned last year.

Mr. SMITH of Florida. Well, you made my point.

Thank you, Mr. Chairman.

Mr. HUGHES. Just picking up just briefly on the Suarez case and the taking of a representative sample—there are a lot of concerns I have with that.

First of all, the initial story was that it had been destroyed. And then the story was, the government of Panama took a representative sample. Then the story was, well, we can't produce a representative sample, but we have a representative sample.

Mr. SMITH of Florida. Just knowing what I know about what's happening going down on cases in Panama, with the amount of corruption we all know exists—not just in Panama, but in so many countries where drug trafficking is thriving—it just defies reason that we would take that kind of representative sample. That's not characteristic to take 52 pounds or 25 pounds of cocaine for a representative sample; isn't that so? That's not typical of what we do.

Mr. LAWN. Perhaps not, sir, but on the other hand, they could have told us that their law required that they seize all of it and would have kept all 752 pounds.

Mr. HUGHES. That's right. They could tell us anything.

Mr. LAWN. In this case, we made arrests in the United States, seized \$1.3 million in cash, arrested the defendants, and that was the level of cooperation that we received.

Mr. WESTRATE. Mr. Chairman, there's a little confusion here, I think, over what is a representative sample. Part of the reason for the 52 pounds was that we weren't certain at the time whether or not there would be a prosecution of some of these people in Panama. Remember, this was an aircraft transiting, so this happened within a matter of hours.

As the follow-up investigation occurred, it was determined there would not be a prosecution in Panama and the defendants were expelled to the United States for prosecution as opposed to Panamanian prosecution. But I don't think the decision to retain 52 pounds in Panama for prosecution there is at all unusual. They would want to have a substantial amount for their prosecution, as we would up here, as opposed to maybe a half a gram or a gram.

Mr. HUGHES. Mr. Westrate, I've never heard of keeping 52 pounds for a representative sample. I mean, I've heard of taking photographs of the contraband, and I've heard of taking a sample in case you have to establish that it's marijuana or cocaine. It's like holding on to \$15 million in the bank vault because you want to show a jury that we have \$15 million. That's stupid. I don't know of any countries in this hemisphere that requires that, do you, Mr. Lawn?

Mr. LAWN. No, sir, but I can tell you that it was done in the United States, that despite the initial release of the Attorney General's guidelines on destruction, U.S. attorneys—

Mr. HUGHES. Oh, I know.

Mr. LAWN [continuing]. Said that they were going to retain every bit of the cocaine that was seized, to the effect that just the guard service to protect the cocaine we seized in Florida was costing us on the average of \$10,000 a day.

Mr. HUGHES. Sure, and it was dumb.

Mr. LAWN. Yes, sir.

Mr. HUGHES. I don't know why any U.S. attorney, first of all, would maintain that as a policy. It's stupid. And frankly, if you can identify for us U.S. attorneys that are doing that, we'd be very happy to conduct future oversight hearings—not in this session of Congress, but maybe in future sessions of Congress, because that doesn't make sense. Let me just move on, if I could, because we're running out of time and I promised to free you up by 4:00 and I'm sure my colleagues have some other questions.

I want to pick up on something that Lamar Smith just dealt with—the problem of law enforcement and the intelligence community, and that that line, trying to maintain that balance between good law enforcement and, at the same time, being a good partner when it comes to national security goals.

Barry Seal comes to mind. Now, that's an example of a case that was jerked around by the intelligence community, in my judgment, to serve purely political ends, and blew probably one of the most

important cases that perhaps DEA has worked on, at least in my eight years in the Congress, and it may be one of the most important cases that you remember.

My question is, how much of a problem is that for you at DEA? Do you find that the intelligence community, whether it be the CIA or whether it be the National Security Council, basically interferes with the criminal justice system, to carry out other political objectives?

Mr. LAWN. No, sir, I don't perceive it to be a major problem. We have CIA personnel who work at DEA Headquarters. The cooperation, I would say, is generally excellent. I chair the intelligence committee for the National Drug Policy Board. There is an exchange of information. While the Barry Seal case certainly was a major case, you are certainly aware of another major case that was compromised, not by the National Security Council, but by another component of the Government.

Mr. HUGHES. But my question deals with national security.

How many instances are you aware of where the intelligence community has, for one reason or another, decided to expose a case for other objectives—nonlaw enforcement?

Mr. LAWN. I'm not aware of any, sir.

Mr. HUGHES. Okay. Well, certainly, Barry Seal falls into that category. You wouldn't quarrel with that?

Mr. LAWN. At this point, certainly, the Barry Seal case was compromised. The problem we have is that we don't know who leaked the information—

Mr. HUGHES. Well, I think it's pretty clear. It was either the CIA or North, Colonel North, or both. I mean, the CIA, from the very beginning, wanted to expose the case because of the contraband coming in from Nicaragua and Colonel North went to great lengths to persuade the DEA. In fact, he tried to persuade you, didn't he?

Mr. LAWN. No, sir.

Mr. HUGHES. He tried to persuade those within DEA that he talked with, including Mr. Westrate, including yourself, that, in fact, the matter should be public or that we shouldn't be sending Barry Seal back into Nicaragua, or both.

And I have no doubt that that's an instance where, in fact, there was a political objective, and that is to attempt to provide some embarrassment to the Sandinista government before a vote in the Congress. It's rather clear from the hearing record that that was the case.

Your testimony is that that's the only instance you know about?

Mr. LAWN. Yes, sir. In my eight years, that's the only incident that I can recall.

Mr. HUGHES. What is the policy of DEA when we send a confidential informant into another country to operate?

Mr. LAWN. That's something, sir, that we would have to discuss in executive session.

Mr. HUGHES. All right. That's something that we'd have to take up in executive session?

Mr. LAWN. Yes, sir.

Mr. HUGHES. I have a number of concerns, getting back to the Michael Palmer case. Let me just say at the outset that I believe the Drug Enforcement Administration does an outstanding job and

we're very proud of the work they do. I regret that there is some suggestion that we're attempting to reduce, in fact, what they do and undercut their operations because that's not the purpose of an oversight hearing.

But there are things about the Michael Palmer, confidential informant, operation that gives me some great concern. We both know that if you don't watch operatives, they have their own little business on the side. We know that we often use these operatives because they have all kinds of contacts in the underworld, that they have all kinds of nefarious relationships, that we attempt to use.

And nobody's ever suggested—at least I've never heard any member of this subcommittee suggest that we should not be using confidential informants. So, if anybody suggests that anybody is proposing we don't use confidential informants, he has missed the target because that's not the point.

In the Michael Palmer instance, it would appear that when he set the operation up, he had a great deal of freedom. Now, we heard the testimony and there was some effort to try to suggest that there was supervision all along the way, but the facts show that that was not the case.

There's some suggestion, although it's now in doubt so I'm not totally persuaded, but there's some suggestion that he picked out his targets and gave them to DEA. Over a period of weeks, there seemed to be a transition on the part of Michael Palmer and certainly the testimony that suggests that what he did was he picked out a number of different targets and then DEA decided what the operation would be.

But what concerns me most of all is the operation itself. We ended up going from Miami into Colombia and back into Mexico. Most of the evidence suggests that that's always what at least Michael Palmer and Haas intended—to bring it back into an airfield in Mexico. The facts are beyond dispute that we lost most of that load.

We contend that we may have gotten as much of it as a half, but half of that that we say we finally got in this country, we can't really trace to that load that was dumped in Mexico. We certainly concede that we lost probably 10,000 to 11,000 pounds of marijuana, at the very least.

And the evidence was, in my judgment, pretty clear that at least the operatives, the confidential informant Michael Palmer, always intended to take it into Mexico because the big fish was going to be that bargeload, perhaps up to 500,000 pounds of marijuana. That was to be the next trip and we had to persuade those traffickers that we're on the level, number one, and we could deliver. So, that was one thing that troubled me greatly.

The second thing that troubled me was that Michael Palmer is a con man, A-number one. I've come across a lot of cons in my life and he might be the granddaddy of the cons. But in any event, he was able to assimilate anywhere between \$1.3 million and maybe \$2.5 million. As much as \$1 million at one time that he had in a tool chest and up to \$1.3 million that the traffickers paid him and we have very little control over that. It's very hard to pin him down.

We're still trying to get his records to pin him down on what happened to that \$1.3 million. We know that a lot of the money he realized from trafficking he still has because we did a lot of dancing around the Maypole in this subcommittee when we were asking him what his assets were.

It was very difficult, but we got out of him that there were about six or seven parcels of real estate that he still owns. He didn't want to tell us how much of that came from trafficking. He wasn't sure how much he paid income tax on it. He really was prepared, at the end, after we examined him very carefully, to say that he perhaps didn't pay any income tax on it. Maybe none of it was declared because he was afraid to say that he declared any of it.

So, here we have a man that, number one, whose indictment was dismissed that ends up with a very, very substantial amount of properties—six to seven properties worth, in many instances, hundreds of thousands of dollars each; no effort to take that property from him; and frankly, trying to explain to a mother whose son ended up being convicted and spending five years for delivering some money in that operation to one of the DEA agents, is very, very difficult.

So, while you may characterize it as a perfect operation, it—

Mr. LAWN. No, sir, if I may interrupt, sir. You had talked about the facts in the case. I, too, have reviewed that case as have a number of people here. You have done, I'm sure, thousands of hours of investigation. The facts that you say are facts continue to be unsupported facts. The personnel who had worked that case, like every major case, see that there were problems with the case.

But factually, the case went the way DEA wanted it to go, targeting those individuals that we felt were subject to be targeted. Was it a perfect case? No, sir, because no case of that magnitude can be perfect with all of the entities involved.

But the facts are less clear to me about that being a tainted case, if you will. I think on balance, it was an excellent case. It was a case that was well-controlled by some very experienced people and I honestly have seen nothing that would lead me to conclude that that method of operation is something that is suspect.

Mr. HUGHES. Well, let me just be candid with you. Frankly, we could look at the same facts and maybe arrive at different conclusions. But I can tell you that after I looked at the facts, I was persuaded that our agency, as well as Haas and Mike Palmer, knew that when that plane left Miami, that it was heading for Colombia and coming back into Mexico.

I have no doubt about that. I think that from all the evidence, I'm persuaded. Because of the argument that ensued from the testimony between Haas and Mr. Wagner, who was one of the control agents, I'm persuaded that he knew at that point that that plane was going to put down in Mexico.

I'm persuaded, from all the circumstances, that they had no choice. They were locked in because the traffickers were pressuring him because he had \$150,000 of the traffickers' money and they wanted performance. The traffickers were at that airstrip in Mexico, always intended to be at that airstrip in Mexico, and Haas and Mike Palmer, from the testimony, always intended to take it to Mexico—that load.

So, we always had the likelihood of losing a part of that load. That was the single-most important part of that operation that gave me concern.

Mr. LAWN. Well, sir, this certainly gives me concern because you're stating that Special Agent Wagner testified last year—if I were to believe that an agent at DEA would come before this subcommittee or any subcommittee, and perjure himself for the sake of an investigation, I would take very strong administrative, if not criminal, action against that agent.

I believe that the integrity of Wagner and this investigation and DEA is a whole lot more important than our arresting a major violator—be it Carlos Lehder or Ochoa or anyone else. If anyone in DEA were to jeopardize his personal integrity or the integrity of DEA to make a case, he doesn't deserve to—

Mr. HUGHES. Well, I'm not suggesting that Wagner perjured himself. Wagner testified that he warned Haas not to go and Haas said, I'm going anyway.

Mr. LAWN. And that he did not know that.

Mr. HUGHES. Well, he knew that, in fact, they had been down looking at the airstrip in San Miguel, in Mexico, because that was part of the operation. But when Haas insisted on going and Haas basically argued with Wagner—from the testimony—we don't have Haas' testimony because Haas is deceased. But Wagner recounted that argument that they had before he left.

But it's rather clear from all the other circumstances that Palmer and Haas always intended to go to Colombia and back into Mexico. It's very hard for me to understand how, after the argument, that Wagner did not know that that was the intent.

Mr. LAWN. Yes, sir. Mr. Westrate wants to say something. I would like to just say, sir, that there were other things that were done to follow this investigation. In executive session, we would be delighted to talk about those things. Palmer was not out there operating without controls.

Mr. WESTRATE. I think Mr. Wagner's characterization is, what happened is, he was trying to clean up what was a difficult situation for him. Whether or not Palmer and Haas intended to do what you said is a possibility, clearly. I think that you always have difficulties in an ongoing investigative activity where things are happening on the street and it's not an historical conspiracy. Informants and undercover agents and the defendants sometimes have different ideas as to what is to happen.

As you say, the bad guys expected some performance in this case. It's not unusual for informants sometimes to try and make their own arrangements, to best protect themselves. A major issue here is the protection of those people once we found out what was happening, in terms of notifications and so on.

Mr. HUGHES. Even there, Mr. Westrate, when the load was dumped in Mexico, it was some time before the Border Patrol was notified about the load being dumped.

Mr. LAWN. No, sir, that's not accurate.

Mr. HUGHES. Well, that was the testimony. The testimony is that written notice went out, in fact, after the 3,000 pounds of marijuana was seized.

Mr. LAWN. Yes. I think, as Special Agent Wagner testified, the written notice did go out after a period of time, but in fact, oral notification was made by Wagner and by others at the approximate time that the information was developed. Contact was made with other law enforcement agencies, oral contact was made, which was later confirmed in writing after the fact.

Mr. HUGHES. I think if I were a control agent and I had told my confidential informant that you're not to go into Mexico, you're to bring that load back, when they put down on the ground in the United States, the first thing I would do would be to chew out that confidential informant. I'd chew him up one side and down the other.

There's no indication that there was any unhappiness with the confidential informant. Mike Palmer told us that everything seemed to be fine. We have an independent witness that testified to the same thing. Frankly, while I'm concerned about the money, the fact that he ended up with a lot of drug money obviously, I'm concerned about that. I'm concerned over the fact that he walked, but that sometimes happens when you get a bigger fish.

What troubles me most of all, however, is that we had a lot of contraband that came into this country because a load was dumped in Mexico. That, to me, is the most egregious part of the Palmer situation. I don't know of any other instances—maybe you do—where we've lost a load of that dimension.

Are you aware of any?

Mr. LAWN. None immediately comes to mind, but certainly, loads have been lost in the past.

Mr. HUGHES. And the first thing I would do would be to get very upset, if I were managing somebody, wouldn't you?

Mr. LAWN. Yes, sir.

Mr. HUGHES. I didn't see that at all, anywhere.

The gentleman from Florida.

Mr. McCOLLUM. A couple of quick questions, and I'd like Mr. Lungren to have some time, Mr. Chairman, since he just came in, but I would like to make a comment.

Going back to the Barry Seal question, I remember being here for a lot of testimony on Barry Seal, and my recollection is that there was a grave question and debate among those involved as to whether the Barry Seal case had actually been blown prior to this running of the newspaper article in the press, and there was also a lot of speculation raised here in the hearing process as to who actually could have disclosed the information.

So, while I do not think it was comfortable for DEA, I do think there's a big question mark out there. It's not nearly as simplistic as some would like to make it be as to what actually happened and what did not happen in regard to that.

Mr. LAWN. Yes, sir. There was, as I recall, a speech given outside of the country about certain initiatives ongoing, which may in fact have been the catalyst that initiated that leak, certainly in the Miami papers. At this point, we don't know where that leak emanated from.

Mr. McCOLLUM. I want to jump back just for a moment to this Palmer/Intruder thing and say that I do share some of the con-

cerns the Chairman has with this, only for the purposes of oversight, only for the purposes of an example of concern.

Overall, I think every evidence that we've seen in the investigation shows that your Drug Enforcement Administration has done an outstanding job under difficult circumstances, using confidential informants, which is a necessary part of your work. One last thing and then I, hopefully, will yield a little time before you have to run to Mr. Lungren.

This Noriega thing always has bothered me in the sense that it's never put in perspective. I may not be able to; maybe somebody else will. But I have letters here that indicate that as early as 1978, that the Drug Enforcement Administration and the Panamanian National Guard were cooperating with regard to drug matters.

Is this not true that Noriega—of course, he was the head of the Guard at that time—has been an instrumental person in our efforts to try to combat drugs for better than ten years?

Mr. LAWN. Yes, sir. In point of fact, that is accurate. As a matter of fact, you talk about 1978. In 1978, there was a Congressional review of our relationship with the government of Panama, anticipating the Panama Canal Treaty. We took every piece of information we had on Panama, brought it up to Congress, so that Congress could review all of that information, anticipating the Panama Canal Treaty.

The Senate did review all of that information and the Treaty was negotiated.

Mr. McCOLLUM. And we also knew back then that Noriega might not be all that good a guy. We've known that, one way or the other, for a long time, haven't we?

Mr. LAWN. Yes, sir. We received our first allegations against Noriega when he was in charge of intelligence, that dates back in our file, I think, to 1973.

Mr. McCOLLUM. So, that goes back before the Reagan period, back to Carter, even back before Carter?

Mr. LAWN. Yes, sir, it certainly does.

Mr. McCOLLUM. It's a long time ago. The bottom line of all of that, to me, is something Mr. Westrate and I talked about once a long time back, about how difficult it must be in your job to deal with the political issues, as well as the practical law questions in matters like this.

The last question from me is, Mr. Lawn, the situation, though very important to us now and I don't want to diminish it, of Noriega—is it typical in the sense of the overall problem that you face politically, not just in Central America, but also in places like Pakistan, Burma, and the far reaches of the world that have not reached nearly the front page of the papers as this has? Is this a political problem that often you've had to face in your job, that's terribly difficult for you?

Mr. LAWN. Yes, sir, it is. As I indicated in that paragraph that I read, that description of that given country was one not in this hemisphere. It is a most difficult problem, one that we deal with every day, because corruption is endemic in the efforts we are fighting against—drug trafficking.

Mr. McCOLLUM. Thank you, Mr. Chairman. I might have had more questions, but I would like the gentleman from California to have an opportunity.

Mr. HUGHES. The gentleman from California.

Mr. LUNGREN. Thank you, Mr. Chairman.

I must say that because of the press of other business, I haven't been able to attend a number of the meetings that we've had on this subject, although I've been able to read the material that's been presented there.

For my benefit, as well as for the record, Mr. Lawn, in dealing with this Intruder case, am I correct that you folks didn't plan for Palmer to land in Mexico and you didn't plan for 11,000 pounds of pot not to be accounted for?

Mr. LAWN. Yes, sir. In fact, that is the case.

Mr. LUNGREN. And that as I understand it, somewhere around 127,000 pounds of marijuana was the total seized in Operation Intruder when it was all added up?

Mr. LAWN. Yes, sir.

Mr. LUNGREN. Given the fact that you didn't plan to lose 11,000 pounds, if you went into an operation, hypothetically, in which you were attempting to penetrate an operation of this magnitude, and you recognized that you would be able to make some major arrests and seize 127,000 pounds of marijuana, but there was the possibility that 11,000 pounds might slip through your fingers—would you judge that to be a reasonable risk to take?

Mr. LAWN. Absolutely. Yes, sir, we would.

Mr. LUNGREN. Can you guarantee, going into operations of this sort, that you're not going to have these types of things occur?

Mr. LAWN. No, sir, we absolutely cannot.

Mr. LUNGREN. I'm always reminded, when we deal with domestic law enforcement, that our local law enforcement personnel, as well as the FBI and the DEA, have to deal with some rather unsavory characters in order to penetrate certain operations or organizations; isn't that true?

Mr. LAWN. Yes, sir.

Mr. LUNGREN. And isn't it a constant assessment that you have to make when you're dealing with confidential informants and when you're dealing with other targets, so to speak, as to how you size them up at any particular time and as a program moves on or an operation moves on?

Mr. LAWN. Yes, sir, it is. It is a great concern of ours. Where we can, when information is developed by a confidential informant, we would prefer, as the investigation continues, to substitute an undercover agent for the informant, where that is possible. It was not possible in this case.

Mr. LUNGREN. Why wasn't it possible in this case?

Mr. LAWN. Because Palmer knew the individuals who were the targets of this investigation and the introduction of an undercover agent was determined to be a factor which may have voided the success of the operation.

Mr. LUNGREN. Do you take into consideration the inherent danger to an undercover agent in that sort of determination?

Mr. LAWN. Yes, sir, we most certainly do. Just this day last week, I met with a 23-year-old agent in New York who had his jaw

shot off in a case—23 years of age, on the job for less than 6 months. It is inherently dangerous. During my tenure, I've buried seven agents.

Mr. LUNGREN. So, in the calculations you make as you're overseeing an operation, you try and make a determination as to whether or not the danger inherent for interjecting an undercover agent may be too great?

Mr. LAWN. Yes, sir, we certainly do.

Mr. LUNGREN. But you also calculate as to whether that agent—after you made a determination on the danger question—whether that agent would have the credibility necessary to carry through the operation to its completion; is that also correct?

Mr. LAWN. Yes, sir, it is.

Mr. LUNGREN. And in this particular case, the determination was made that you couldn't take Palmer out and put an undercover agent in; correct?

Mr. LAWN. Yes, sir, that was our determination.

Mr. LUNGREN. In retrospect, would you have made a different decision?

Mr. LAWN. No, sir. Even reviewing all of the factors in the case, there are things certainly that we would improve upon in the next such case and we know, in working with this subcommittee, there will be recommendations on how we can initiate tighter controls. But in retrospect, we would do it the same way.

Mr. LUNGREN. In any event, you don't have the luxury of retrospect to make decisions with respect to your ongoing operations or past operations, do you?

Mr. LAWN. No, sir. As the Chairman said at the outset, we're not coaches looking at yesterday's game, but rather, looking forward to how we can improve next time.

Mr. LUNGREN. Forgive me if you've already gone over this, but are there any specific lessons that you would take out of this case that you would apply to future operations?

Mr. LAWN. Yes, sir, certainly there are.

Mr. LUNGREN. That you could reveal in open session?

Mr. LAWN. Lessons that we have talked about.

Mr. WESTRATE. I think one thing, sir, if we had known what was going to happen in terms of the particular load into Mexico, we would have done something to avoid that or get into a position to be able to address it wherever it went. Because of the press of time, the phone call from a phone booth, I'm on my way, an argument about not going, and so forth, we weren't really able to do that.

All we could do was to scramble, to try and put the best result on it that we possibly could. But if we had time to plan that, know what these people were thinking, and analyze it, we would certainly have done something different. We face this problem every day in our investigations. It is very rare that we lose any drug evidence at all.

We've got techniques and things that we can't go into here, to ensure that that doesn't happen. Our track record, frankly, is very, very good. The last major one that I remember when we had a difficulty was about three or four years ago.

Mr. LUNGREN. What I'm trying to draw out is, you believe that if you had the time and you'd been able to anticipate this, you might

have positioned people in that area that you could follow it or, in some way, make sure it didn't go into Mexico.

But I guess the other question to me that's important is, if you had a similar situation present itself with the risk that you might lose 11,000 pounds, but the potential of gaining over 127,000 pounds with the arrests that were made, you would judge that to be a worthy risk?

Mr. LAWN. Yes, sir, we would. We had a parallel investigation very recently where we had to make that same assessment.

Mr. LUNGREN. Okay. If I just might mention, since the Noriega connection was brought up, I am a member of the Intelligence Committee and the Intelligence Committee is the committee to which the CIA and other intelligence operations must report, in terms of covert operations and contacts with foreign countries.

I have had the opportunity to review the Inspector General's report for the CIA, as well as other correspondence, and all I can say for the record for this Committee is that I am satisfied that under the circumstances that presented themselves at the time, through a number of administrations—there have been arguments whether it's been seven administrations or four administrations, depending on what number you want to use—but nonetheless, through many, many administrations, that based on the information that was then available, that the United States did not act in inappropriate ways.

One of the things that becomes crystal clear to me, in terms of what we can talk about publicly, is that again, when you have a situation with a head of government or someone high up in a government that is basically a military government, that has levels of corruption throughout it, that if you deal yourself out completely, you're left basically naked against everything there, that which is corrupt and that which is not corrupt.

And it is not a black or white, evil versus good situation that we often have to deal with. I'm no apologist for Mr. Noriega, I can guarantee you that, and if we had known more about Mr. Noriega in the past, for instance, I'm not sure we would have ever had a Panama Canal Treaty passed—or if we'd known some of the things about General Trujillo at the time.

But in fact, we were attempting to deal with a country in the world which has some rather unique national security aspects to it and you've got to make some tough decisions. And Democratic presidents and Republican presidents have made tough decisions and the unfortunate thing is that only half of the debate or one-third of the debate can become public.

I'm just hopeful that the public is not misled in the heat of a political season about this, because I don't think we ought to drag the CIA and the DEA and the FBI and other entities of the Federal Government through the dirt when everything that they were doing was exposed to the Congress of the United States on a regular basis, under the subcommittee structure that we've established.

If people don't think a proper job was done, they ought to look to the Intelligence Committees of the House and the Senate, and ask why they didn't do the proper job. We ought to be able to take that heat if there's heat that ought to be addressed to us. And that's what I find troubling.

I don't think your agency ought to be dragged through it. I don't think the CIA ought to be dragged through it, unless we find something there and frankly, I've looked it over and I can't find it and I wish, in fact, that we would say that so that a couple of agencies who have awfully good people, who are committing themselves to this country and some very serious circumstances around the world, ought to get credit for what they're doing.

You folks are not lily white or absolutely pure and you're not infallible. I may be the only one here—well, maybe a couple of us believe there is infallibility, but that only happens to sit with one individual, not only on cases of faith and morals, and some would disagree that even the Pope has infallibility.

But absent that one, I don't know of anybody who's infallible and maybe we ought to remind ourselves of that at times. We have every obligation to oversee you folks, make sure you do a good job. But I also think that from my standpoint, I've got an obligation to tell you when I think you've done a fairly good job. At least, in reviewing the things that have come to my attention, I think you do.

Thank you very much, Mr. Chairman.

Mr. LAWN. Thank you, Congressman Lungren. I think what people fail to note is that when we developed information that we thought could be brought before a grand jury against Noriega, we brought that information. It was a DEA investigation that brought that indictment. While, over the years, we did cooperate with the PDF, when we felt we had the information available to seek an indictment, we did that.

Mr. HUGHES. I just want to, if I might, just pick up from something that Dan Lungren said. You know, what is a lesson to be learned from the Mike Palmer operation.

I've given a lot of thought to that because, as you know, I've been involved in a number of sting operations myself over the years. Frankly, let me just tell you what I think is a lesson to be learned.

I don't think Mike Palmer had any choice when he took off from Miami because in the first place, we selected—we participated in the selection of several strips in Mexico—that is, we permitted Palmer to go down, meet with the traffickers, and select strips.

He arranged for the traffickers to be at that strip. When he took off, he was under pressure from the traffickers. They were really pressuring him because he had \$150,000 of their money and he hadn't delivered. He had to go to that strip. That's why the bit about intending first to go and circle because he was put in the position where he had to deliver to them. The pressure was on and he had no other place to go but to Mexico.

That, to me, is the lesson. In addition to, as I say, my great concerns over the vast amount of money that he had available to him—and still has available to him—I think that sends a terrible signal. I can say that and still be a good friend to the DEA because you've heard me often and you've seen me often work overtime for the DEA.

It's an outstanding agency, but we're dealing with very sensitive situations, with people that have their own agenda, and we are on notice that they're going to do things that serve their interests as they work for us. And I have no doubt that Mike Palmer had his

own agenda. And his own agenda was to deliver that load to Mexico. That was his agenda.

Well, I just have one more question, Jack. I'm not sure I understand when reading the Iran/Contra hearing depositions, who you were referring to when you said "following the White House briefing"—I suspect that's the briefing with Caffrey—"I received subsequent calls from several other individuals expressing their concern about the investigation continuing." You're talking about Barry Seal?

Mr. LAWN. Barry Seal? Yes, sir.

Mr. HUGHES. Yes. I wasn't sure to whom you were referring. That's why I asked you before about people trying to persuade you not to continue the investigation. You indicated to me that nobody had contacted you, but there is that one reference in your testimony to the Iran/Contra Select Committee where you allude to having several individuals calling you.

Mr. LAWN. Yes, sir. I received a call, for example, from the United States Attorney in Miami, who said that he was intricately involved in the case and that based upon the publicity in Florida, that Seal was cooperating, that he thought it was not prudent of us to have Seal return on the next flight. I told him that I would check with the investigators involved and with the agents who were actually with Seal.

I subsequently received a call from Deputy Attorney General Lowell Jensen, who was forwarding a message from the U.S. Attorney in Miami, agreeing that Seal was in great jeopardy in going back to accomplish what he thought he could accomplish.

I again said that I would contact our Miami office; I would talk to the agents; that this was an enforcement decision; that Seal would have to realize the implications of his travel; but that if Seal and the agents felt that he could accomplish his mission, that my recommendation would be based upon the agents on the scene.

Mr. HUGHES. Was that before or after the leak?

Mr. LAWN. That was several days earlier. There had been a reference made in a speech about the involvement. I believe the first story surfaced in Miami and this would have been after the first story surfaced in Miami.

Mr. HUGHES. OK. After the General Gorman speech?

Mr. LAWN. Yes, sir.

Mr. HUGHES. I see. Any other calls besides those two—the U.S. Attorney and Lowell Jensen's calls?

Mr. LAWN. I believe, sir, that I also had a call from Bud Mullen, who was out of Washington, and said that the U.S. Attorney and Lowell were concerned and he wanted to know why I was making that decision and I said, well, Bud, I'm talking to the guys on the street who have the better sense of whether this can be effected or not, who have talked to Seal to see whether Seal has confidence it could be accomplished, and that my judgment is to go with the enforcement guys who were closest to it.

Mr. HUGHES. But they were the only calls you received?

Mr. LAWN. Yes, sir.

Mr. HUGHES. I see. OK. Any other questions?

[No response.]

Mr. HUGHES. Well, thank you very much. I'm sorry that we've kept you as long as we have. I apologize for the delays and appreciate your willingness to come in and testify and again, we think—we all think—that DEA does a good job. We're proud of the work that DEA does and we want to work with you in making it an even better agency.

Mr. LAWN. Thank you, Mr. Chairman. Hopefully, we will work together on your recommendations so that we, in future cases, can satisfy you and this subcommittee that we are doing everything as clearly as they can be done.

Mr. HUGHES. Thank you.

The Subcommittee stands adjourned.

[Whereupon, at 4:20 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—CHRONOLOGY OF SEAL'S ROLE AS DRUG TRAFFICKER AND CONFIDENTIAL INFORMANT FOR THE DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE

SEAL CHRONOLOGY updated 7-25-88

04-26-83 Adler Berriman Seal, aka Barry Seal, arrested by
 DEA Ft. Lauderdale in "Operation Screamer".

06-17-83 Roy Stafford, Jacksonville, FL purchases a
 Fairchild C-123K, tail no. N4410F, s/n 54-679 from
 USAF

07-12-83 Stafford registers the C-123K with FAA

08-16-83 Stafford sells the C-123K to Doan Helicopter,
 Inc., Daytona Beach, FL

08-16-83 Harry Doan registers the C-123K with FAA on behalf
 of Doan Helicopter, Inc.

02- -84 Seal is convicted by jury trial in Ft. Lauderdale

03-09-84 Lockheed Learstar (N513V) registered with FAA by
 Barry Seal.

03-12-84 The first of many work orders written on N513V at
 Rich Mountain Aviation, Mena, AR

03- -84 Barry Seal is unable to make a deal with Federal
 officials in FL after being caught in "Operation
 Screamer". Seal first calls and then travels to
 Washington and makes his pitch to the Vice
 President's Task Force (deals with Customs Agent
 Jim Howell who is assigned to the task force).
 Howell takes Seal to DEA where he meets with Agent
 Kenneth R. Kennedy. Kennedy refers Seal to Miami
 DEA agents Robert Joura and Ernst Jacobsen. No
 mention of Nicaragua.

03-27-84 Seal debriefed by DEA Miami

03-28-84 Seal debriefed by DEA Miami
 Seal pleads guilty to two additional counts; AUSA
 Steve LeClair (Ft. Lauderdale) authorizes Seal's
 use as a C/I.

03-29-84 Seal debriefed by DEA Miami

04-07-84 Seal and Felix Dixon Bates ferry a Titan 404
 (N2685U) from Miami to Medellin, Colombia for the
 Cartel.

04-08-84 Seal & Bates meet with Jorge Ochoa in Colombia. Ochoa tells them about 6000' airstrip in Nicaragua. This appears to be the first mention of Nicaragua.

04-10-84 Seal's passport shows him entering & exiting Panama on same day

04-10-84 Seal's passport shows he enters Guatemala

04-11-84 Seal's passport shows he exits Guatemala

04-17-84 Seal meets with "Lito" Bustamante and other members of the Ochoa organization in Miami.

04-18-84 Seal, Emille Camp, Felix Dixon Bates, and 3 Colombians travel to Mena, AR from Miami to view the aircraft (N513V) to be used in the operation. Bates insists this was not connected to the cocaine trip; that Seal was only trying to sell another aircraft to the Colombians.

04-19-84 Seal debriefed by S/A Jacobsen in Miami

04-20-84 Approval received from Colombian government thru DEA Bogota for C/I (Seal) to enter Colombia to pick up load of cocaine.

04-20-84 Seal goes to Nassau for the weekend with DEA's knowledge but not their approval. Seal's passport shows he entered Bahamas 4-20-88.

04-22-84 Seal, Bates, and Emille Camp fly to Panama via Nassau. Seal's passport shows he entered Bahamas on this date.

04-23-84 Seal's passport shows another entry into the Bahamas.

04-23-84 Seal's passport shows entry into Panama

04-24-84 Seal meets with Jorge Ochoa, Pablo Escobar, and Luis Angel in Panama. Seal negotiates a deal with Luis Angel to trade the "Lauren Lee" and a Hughes 500 helicopter (N2834X) for a Merlin 3B airplane (N1012T) owned by the cartel.

04-25-84 Approval received from Colombian government thru DEA Bogota for C/I to leave with 2nd load of cocaine.

04-25-84 Seal's passport shows he exits Panama

04-25-84 Seal's passport shows entry into Bahamas

04-26-84 Seal debriefed by S/A's Joura & Jacobsen in Miami. Seal and S/A Jacobsen (U/C) meet (in Miami) with Lito Bustamante and obtain keys to motor home.

04-28-84 Engine blown on Lockheed Learstar (N513V) during test flight thereby delaying trip to Colombia.

04-30-84 Colombian Minister of Justice Rodrigo Lara-Bonilla killed

05-08-84 Joura memo reports that Seal has learned the Ochoa organization is moving much of its operations to Nicaragua. Joura says ASAC I (S. B. Billbrough) has reported this to the CIA and they expressed "considerable interest".

05-14-84 Felix Dixon Bates and Peter Everson leave the U.S. on or about this date to ferry a helicopter to Panama to exchange for the Merlin aircraft. Bates is to meet Seal in Panama.

05-18-84 Seal travels from Miami to Panama and meets Bates. Seal's passport confirms entry into Panama.

05-19-84 Seal & Bates meet with Jorge Ochoa, Pablo Escobar, Luis Angel, Fabio Ochoa, Gonzolo Rodriguez-Gacha, and Federico Vaughan in Panama City, Panama. Bates denies being present for any substantive meetings.

05-20-84 Seal's passport indicates he exits Panama.

05-21-84 DEA 6 indicates Vaughan, Seal, and Bates fly from Panama City to Managua via Copa Airlines. Vaughn shows Seal a 3000' airstrip 5 miles NW of Managua (Los Brasiles).

05-22-84 Seal's passport indicates he enters and then leaves Panama on the same day.

05-23-84 Seal sentenced in Ft. Lauderdale to 10 years and is remanded.

05-25-84 Seal released from custody on an appeal bond to continue as a C/I

05-28-84 Seal and Emille Camp leave Mena, AR for Colombia at 2:30 a.m. in the Learstar (N513V). At 1:00 p.m. Seal radios he will be landing in Colombia in 30 minutes. Carlos Lehder delivers 1500 Kilos of coke to Seal in Colombia. Seal's plane crashes on takeoff. The cocaine is unloaded and stored.

05-30-84 Seal calls from Medellin and explains problems. Ochoa provides a Titan 404 aircraft (having tail no. N700FL, but believed to be the same plane ferried to Colombia by Seal and Bates on 4/7/84) for use in transporting half the coke to the U.S. A refueling stop is scheduled for Los Brasiles Airport near Managua.

06-03-84 Seal leaves Colombia with approx. 660 kgs. of cocaine in the Titan 404.

06-03-84 Seal and Camp land the Titan 404 at Los Brasiles airfield near Managua, Nicaragua at approximately 6:30 p.m. Plane is refueled with the assistance of Federico Vaughan. Plane is hit by anti-aircraft fire after takeoff and lands at Sandino Airport in Managua. Seal and Camp are held overnight.

06-04-84 Vaughan arranges C/I's release. Seal witnesses cocaine being taken off the Titan 404 and stored by Nicaraguan military personnel.

06-06-84 Seal and Camp are flown to Miami in a Cessna Cheyenne III (HK2772P) reportedly owned by Pablo Escobar. The cocaine remains in storage in Nicaragua.

06-10-84 DEA 6 indicates Seal acquires C-123K on this date

06-18-84 Seal trades the Merlin 3B (N1012T) to Harry Doan for the C-123K (per Doan's records)

06-23-84 CIA installs cameras on the C-123K at Homestead Air Force Base.

06-24-84 Seal, co-pilot Emille Camp, and mechanic Peter F. Everson fly the C-123K from Homestead AFB (via Key West) to Los Brasiles, Nicaragua.

06-25-84 C-123K lands at Los Brasiles Airport approximately 10:00 a.m. The plane is met by Federico Vaughan, Pablo Escobar, Gonzolo Rodriguez-Gacha, aka "The Mexican", and others. Approximately 666 kilograms of cocaine are loaded onto the aircraft. The C-123K is refueled with 2,000 gallons of aviation fuel. Photos are taken with hidden cameras installed by the CIA. C-123K departs approximately 8:00 P.M.

06-26-84 C-123K returns to Homestead AFB approximately 4:50 a.m. CIA develops the photos. DEA takes custody of the cocaine.

06-27-84 Van stopped at approximately 10:05 p.m. by Florida Hwy. Patrol and approximately 666 kgs. of cocaine is seized.

06-29-84 Gen. Paul Gorman makes a speech to the American Chamber of Commerce in El Salvador in which he mentions Nicaraguan involvement in drug smuggling.

07-07-84 Seal/Camp/Everson fly the C-123K from Key West to Los Brasiles and deliver \$1.5 million in cash and "toys" to Federico Vaughan and Pablo Escobar. "Red" Hall is in Managua and has radio contact with Seal during flight to Nicaragua. Seal sees 700 to 800 kgs. of cocaine at the airstrip, but leaves it in Nicaragua explaining he received a "red light" from his U.S. ground crew. The C-123K is refueled and leaves with no cargo on board.

07-07-84 Homer "Red" Hall claims to have seen the aircraft on the ground at Los Brasiles. Everson does not recall seeing Hall, but was told Hall was manning the radio from Managua. According to Hall, Seal and Vaughan meet at the house where the radio base has been installed.

07-08-84 C-123K arrives back in New Smyrna Beach, FL approximately 4:50 a.m. S/A Bob Joura and another DEA agent search the plane on arrival.

07-17-84 Washington Times story by Edmond Jacoby regarding Nicaraguan involvement in cocaine.

07-18-84 DEA obtains arrest and search warrants.

08-07-84 Sen. Paula Hawkins has press conference re Sandinista involvement in drugs. Four photos taken during Seal's 6-25-84 trip to Los Brasiles are released. A high altitude photo of Los Brasiles Airport, described in press accounts as being taken by a "U-2", is displayed by Sen. Hawkins, but not released.

12-20-84 Seal indicted in Louisiana

12-21-84 Seal arraigned in Louisiana and released on \$250,000 personal bond

01-07-85 Seal debriefed by Federal authorities in Louisiana (FBI 302 of debriefing done by S/A Dale Hahn)

01-08-85 Seal pleads guilty to 21 U.S.C. 846 and 18 U.S.C. 1001 in Louisiana

02-20-85 Emille Camp dies in plane crash near Mena, AR

07/84
to
06/85 C-123K at Rich Mountain Aviation, Mena, AR

06-15-85 Seal sells the C-123K back to Harry Doan for \$250,000

10-28-85 Seal sentenced to 6 mos. in halfway house (Salvation Army, Baton Rouge, LA)

02-19-86 Seal murdered in Baton Rouge, LA

03-16-86 President Reagan uses a photo of Federico Vaughan taken during the 6-25-84 flight to Nicaragua in a nationwide television appearance in support of a Contra Aid Package.

03-28-86 C-123K sold for \$475,000 by Harry Doan to persons represented by Ed Garay. Payment made by check drawn on Southern Air Transport.

10-05-86 C-123K shot down in Nicaragua. Hasenfus captured.

APPENDIX 2.—DECLASSIFIED PAGES OF OLIVER NORTH'S NOTEBOOKS
CONCERNING THE BARRY SEAL MATTER

A. UNCLEAR VERSION

15 DECLASSIFIED PAGES OF OLIVER NORTH'S NOTEBOOKS CONCERNING THE
BARRY SEAL MATTER.

"NR" NEXT TO A REDACTION MEANS "NEW REDACTION" MADE FOR THE
PURPOSE OF DECLASSIFICATION.

"PR" NEXT TO A REDACTION MEANS "PREVIOUS REDACTION" MADE BY
OLIVER NORTH'S ATTORNEY PRIOR TO TURNING THE NOTEBOOKS OVER TO
THE SELECT COMMITTEE.

256	
NR	
<p>II. <u>Claridge -</u></p> <p>His bug operation</p> <p>C-123 acquired by <u>Det Source</u> unfulfilled 2 contacts <u>sent to Miami</u> <u>linked to Las Vegas</u></p>	

25th Jan

I to Freddy Vaughn

works for Tommie Dange

11 1/2 boxes plus Vaughn + Mr. Int. Trease

750 lbs of cocaine

Our source - did not find dead

Cocaine will be put in parcel for
my out-off

1500 lbs of Colombian with

these 750 lbs

Stores of the agent work quit

0

[Redacted]

NR

224584

PR

6-156

1

27 Jun 84

☐ Notes in Wines
- Wine - etc- Van Buren - Cuthbert- Mellen - Des- Wine - etc- Wine - etc

PR

PR

27 Jun 84

1. Dave Case

- Dave Case on Subverting Cocaine

- Sam Schell

- Columbia drug dealer - possible

- suggestion to move office off to Nicaragua

- Bill Erickson - Columbia drug case

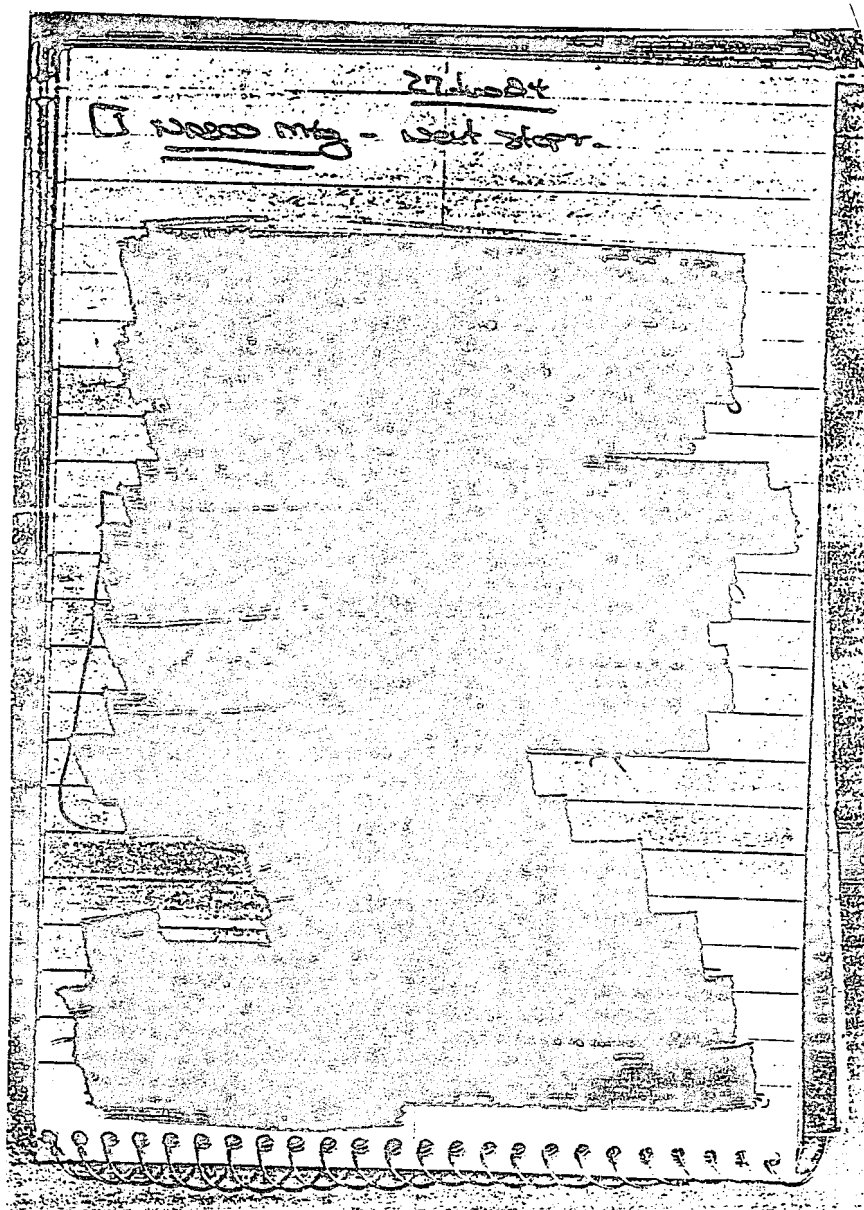
- Informant (S-1) is initiated trained

- Carlos Loldan

- Freddy Dingle

PP

PP



6 Jun 84

NR

ET Call for Claridge

- Equipment is ~~at~~ ~~the~~ ~~same~~

- Quick turnaround

- PI who works Des Ho

- When Des calls PI asks about cancer

- Des thinks CIA leaked info to Gorman

- Flying Gaur

□ Call for Clarke - CP goes ahead - ~~stop~~

9 June 04

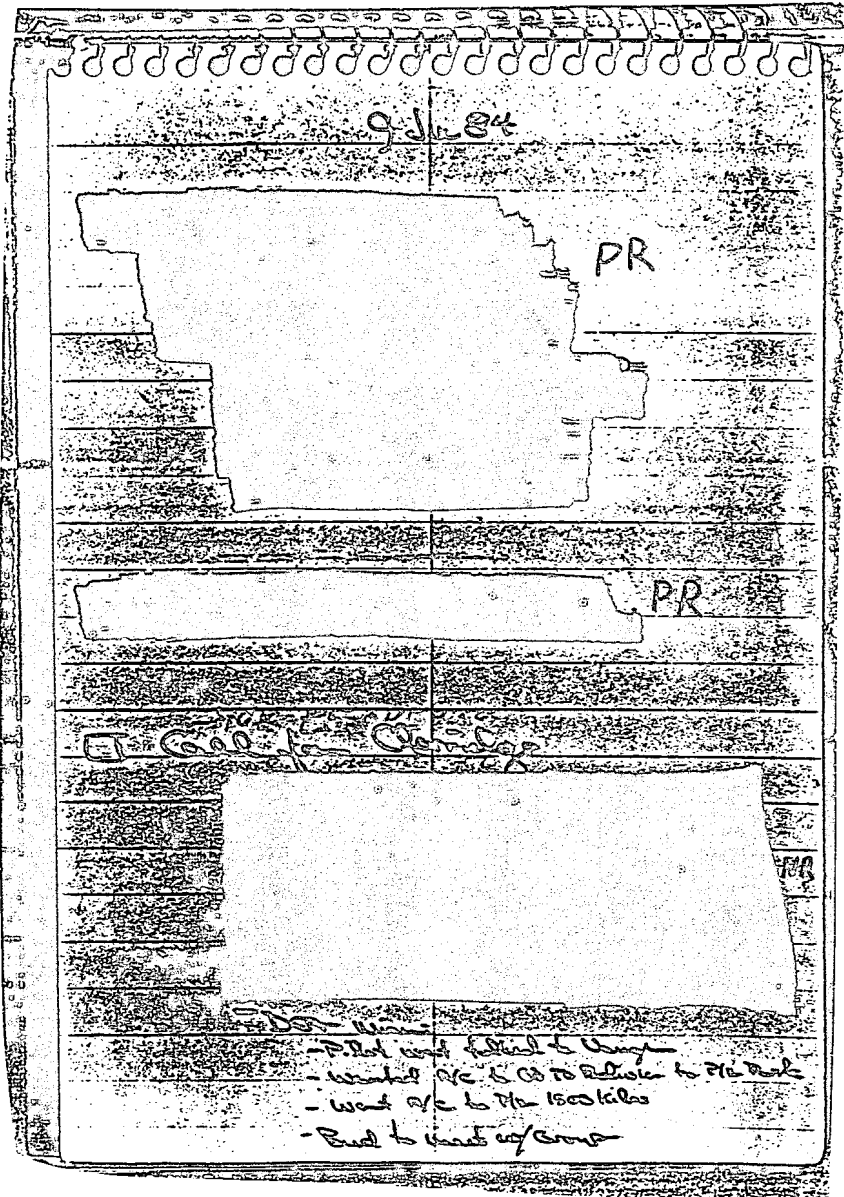
NR

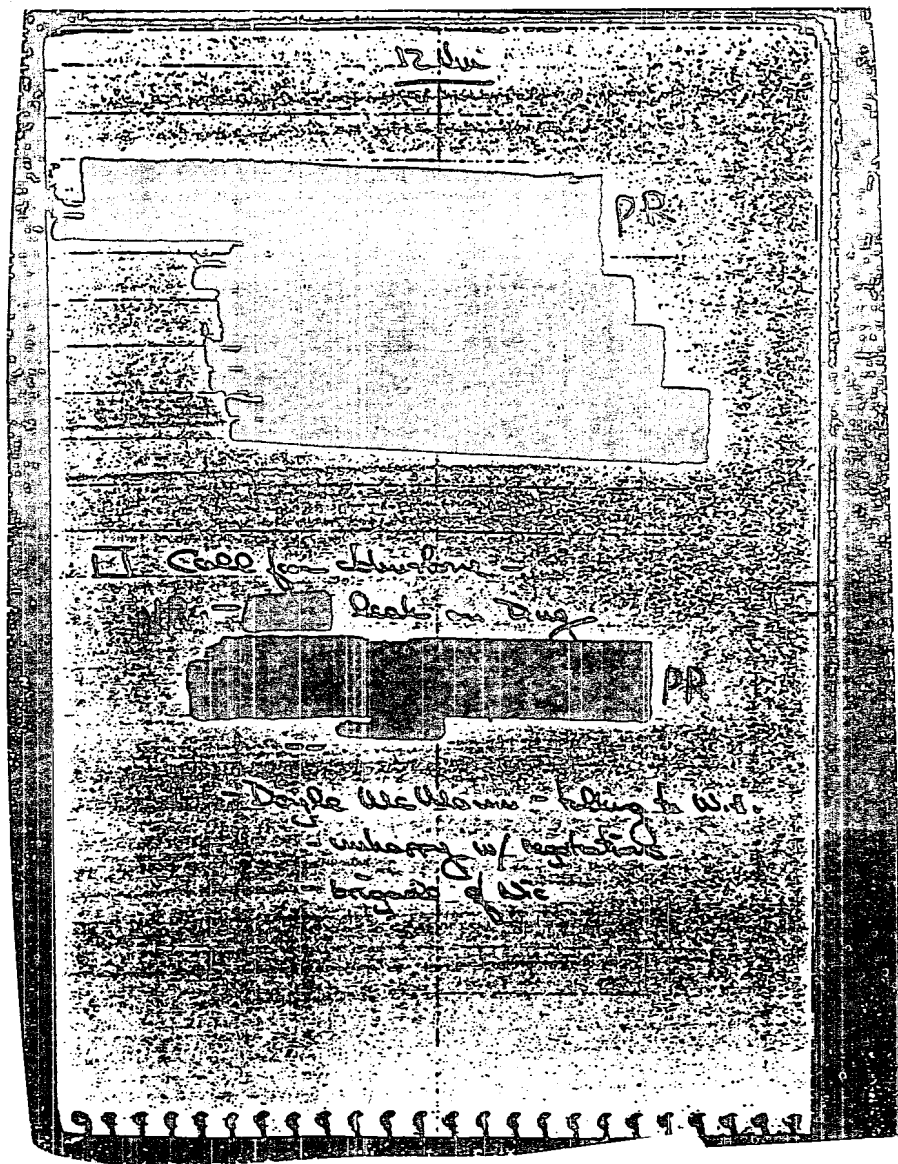
PR

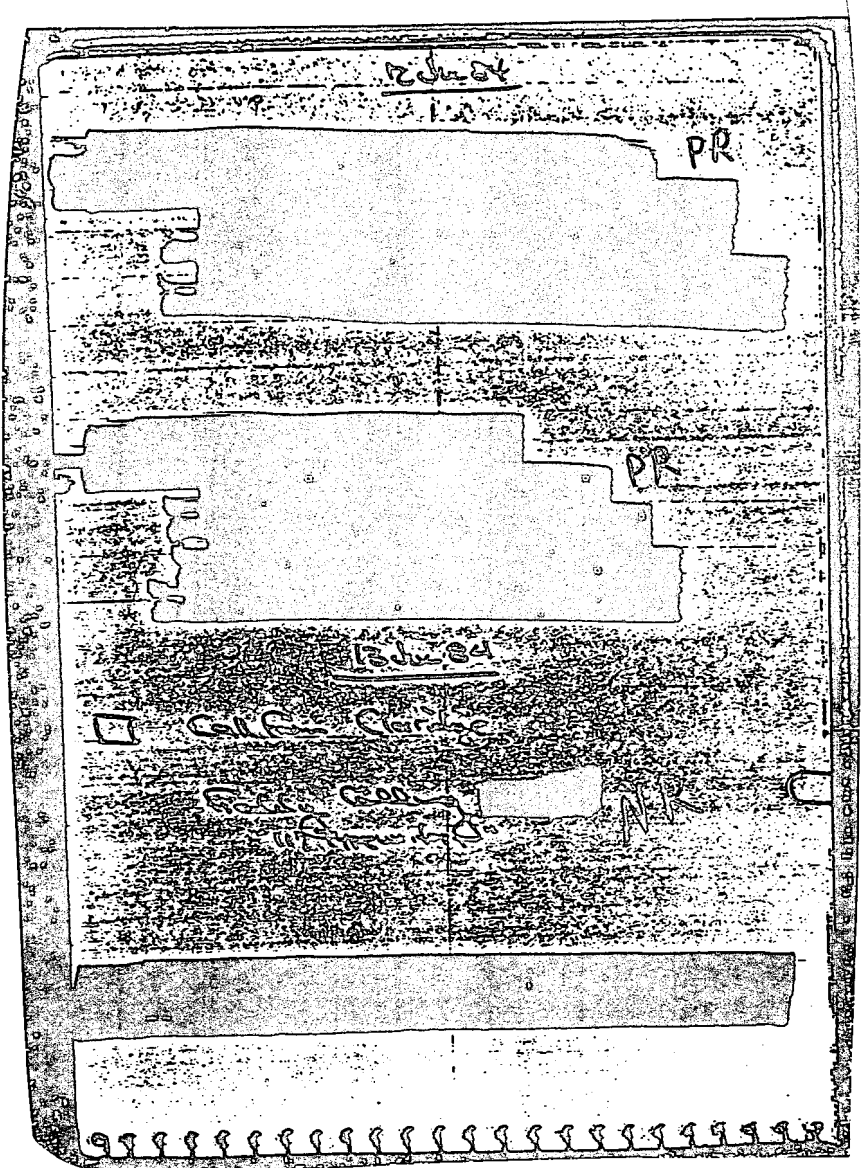
PR

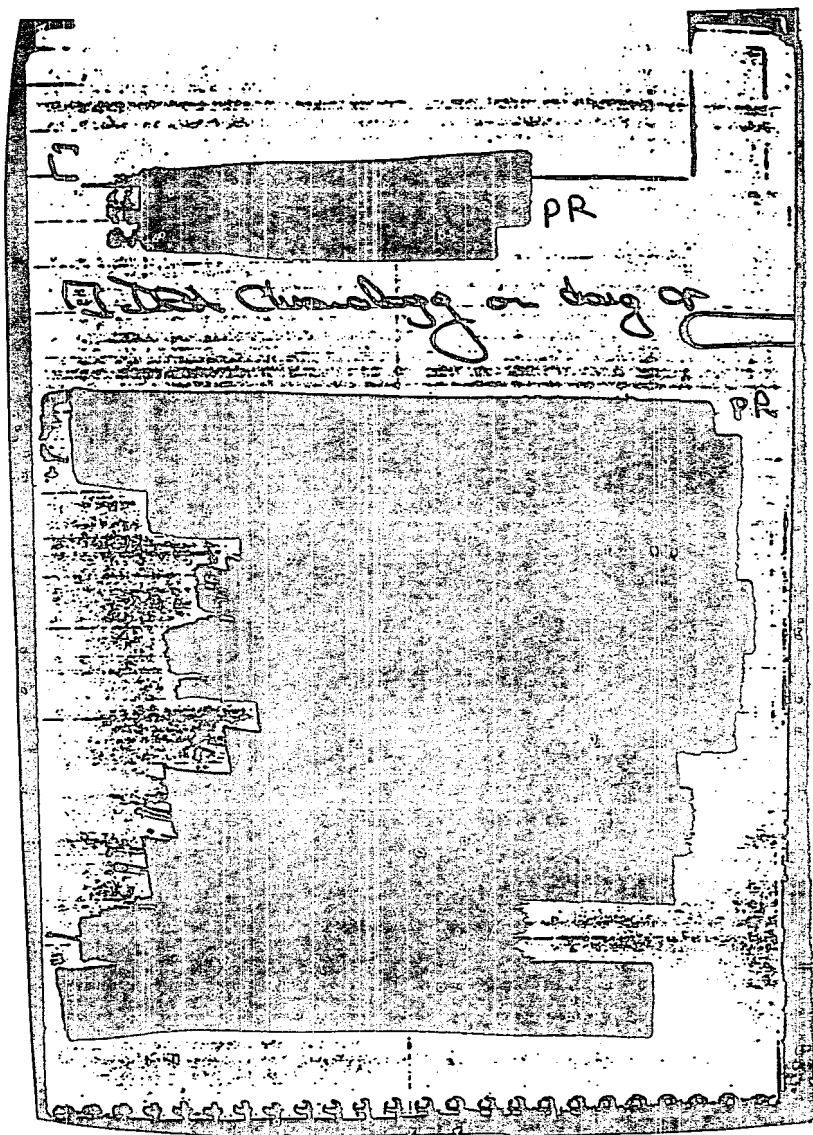
Call for Clarification
 Call Michael Bo. (Area) Team
 - Bical 1300000

PR









17 July 84

□ Call R. Ed. Sims

- Work Tues. days on canoe

□ Call for ~~Johnstone~~

- Hollander, L.A. Times - says

USC B. raised claims

W.A. has photo of Borge

loading canoe in Vic.

NR

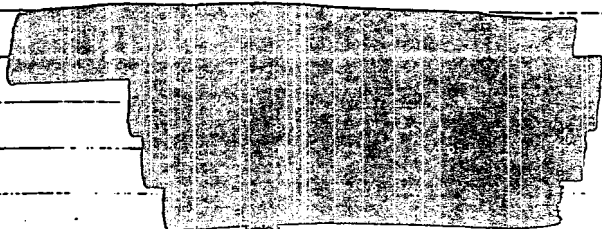
PR

□ Call John Phillip Hughes

Re - actg w/ V.P.

Dupe

17 July 84



PR

☐ Call to ^{Frank M.} Bud Chellier Re

- Look on ~~the~~ piece

- ~~Call~~ Turner

- Dale Houser



PR

B. TYPED VERSION

26 JUNE

- [] Clarridge--
 nic drug operation
 C-123 acquired by DEA Source
 installed two cameras
- plane t/o Miami
 landed Los Brazilas

page
1


26 JUNE

- [] Freddy Vaugh
 works for Tomas Borge
 Photos show Vaugh + NicInf Troops
 750 lbs of cocaine
- Our source--distinct from DEA
- Cocaine will be put in panel truck w/cut off
- DEA told that Columbians ----["will" stricken through]
 have sent
- Tapes of DEA agent working with
- Interagency task force--

page
2

26 June 84

[first 2/3 of page redacted]

- [] DEA-works for
 -Mullen (Bud) 
 -Johnathan-

6 1151

page 3

...

27 June 84

[] Mtg in WHSR

- Motley - State
- Von Raab - Customs
- Mullen - DEA
- Clarridge
- Ken deGraff

page
4

27 June 84

[] NARCO MTG - Next Steps

[entire page redacted]

page
6

27 June

[] Drug Case

- DEA Program on controlling cocaine
- Ether cut-off
- Columbians readjusting--possible negotiations to move refining effort to Nicaragua
- Pablo Escobar--Columbian drug czar
- Informant (pilot) is indicted criminal
- Carlos Ledderer
- Freddy Vaugh

[rest of page--1/3--redacted]

page
5

[REDACTED]

...

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

...

6 July 84

[] Call from Clarridge

--call [REDACTED] re next steps

--should Timothy Ross (ABC) go to Miami to talk to District Atty.

[] Call from [REDACTED]

--picking up \$ 1M

--leaving at 0000 w/ \$ & radio equip.

--Freddy coming in late July

page
7

[] Conf call w/ [REDACTED] - Clarridge

-Amadio [??]

-A/C return 0200

-Stanley Marcus-U.S. Atty.

...

[] Call to Bud Mullen - [REDACTED]

[] Call from Clarridge 6 Jul 84

-Equipment is Sears

-Quick turn around

-PI who works DEA HQ

-Miami DEA calls PI asks about cameras

-DEA thinks CIA leaked info to Gorman

-Playing [games?]

page
8

[] Call from Mullen - Op goes ahead - 0200

12 July 84

[] Call from Johnstone
 - [redacted] leak on Drug
 redactions

page
 11

12 Jul 84

13 Jul 84

[] Call from Clarridge

Freddy calling [redacted]
 "typewriter"

page
 12

date ? (13 or 16 Jul 84)

[] DEA chronology on drug op
 redactions

page
 13

17 Jul 84

[] Call from Bob Si....?

Wash Times story on Cocaine

[] Call from Johnstone

McManus, L.A. Times says
 NSC source claims W.H.
 has pictures of Borge
 loading cocaine in Nic.

page
 14

17 July 84

[] Call to Frank M....
Bud Mullins

Re

- leak on DEA piece
- Carlton Turner
- Dick Houser

page
15

APPENDIX 3.—TRANSCRIPT OF CROSS-EXAMINATION OF BARRY SEAL, AT
PAGE 434, U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA,
MIAMI DIVISION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

UNITED STATES OF AMERICA,) NO. 85-165-Cr-SPELLMAN
Plaintiff,)
vs.)
NORMAN SAUNDERS)
STAFFORD MISSICK) Miami, Florida
AULDEN SMITH,) July 9, 1985
Defendants.) 1:45 p.m.

VOLUME I

TRANSCRIPT OF TRIAL

BEFORE THE HONORABLE JOHN J. MOORE, II
and a jury

APPEARANCES:

For the Plaintiff: RICHARD GREGORIE
TED BANDSTRA,
Assistant U. S. Attorneys

For the Defendant
Saunders: ALBERT KRIEGER, ESQ.
SUSAN VAN DUSEN, ESQ.

For the Defendant
Missick: PHILLIP CARLTON, ESQ.

For the Defendant
Smith: MICHAEL L. VON ZAMPT, ESQ.

Court Reporter: MARIO J. CONTILLO
301 North Miami Avenue
Miami, Florida 33128

MARIO J. CONTILLO
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT
MIAMI, FLORIDA 33128

1 date I have done no smuggling trips for myself, that's
2 it.

3 Q That was after you'd been to Washington.

4 A That's right.

5 Q Just so that we're sure.

6 A That's correct.

7 Q Okay. According to Mr. Gregorie, that's March
8 24th, 1984.

9 A I don't know when it was.

10 Q Accept the date. Don't, please--

11 A When I went to Washington, on that day?

12 Q No, sir. The date that you met with the agents
13 here in the Southern District of Florida.

14 A Okay.

15 Q March 24th, 1984.

16 A That's fine.

17 Q Okay? We then can assume, can we not, that up
18 until March 24th, 1984, during the year 1984, then,
19 during the three-month period, more or less, you did
20 smuggle drugs into the United States.

21 A (No response.)

22 Q Put it a different way, if you're troubled, by
23 the time you were making money in '84 as well as in
24 '83.

25 A I am not real cognizant of when my last trip was.

- 1 It was around the end of '83 into '84; yes, sir.
- 2 Q And you earned how much on that trip?
- 3 A Which trip?
- 4 Q The last one.
- 5 A I don't remember.
- 6 Q Cocaine?
- 7 A Sir?
- 8 Q Cocaine?
- 9 A My last trip?
- 10 Q Cocaine?
- 11 A Yes, sir.
- 12 Q About how many kilos?
- 13 A All the trips were between 250 and 300 kilos.
- 14 Q At 5,000 a kilo?
- 15 A No, sir, not all the time.
- 16 Q Well, you weren't fooling these people when you
- 17 said that you have, and you started out charging \$3500
- 18 a kilo, were you?
- 19 A No, sir.
- 20 Q You did start out charging 3500 a kilo; correct?
- 21 A That was an agreement that Mr. Reeves reached
- 22 with Mr. Ochoa.
- 23 Q Whatever. That's what you started out.
- 24 A That's what Mr. Reeves charged.
- 25 Q That's what you were charging.

1 A No, sir.

2 Q You charged less?

3 A Yes, sir.

4 I was in a partnership with Mr. Reeves. I didn't
5 get all the money.

6 Q The kilo didn't know that, did it?

7 MR. GREGORIE: Objection, Your Honor.

8 MR. KRIEGER: I withdraw it, Your Honor.

9 BY MR. KRIEGER:

10 Q Regardless of whether it was a partnership or
11 major corporation or 14 people who chopped up the
12 \$3500, I'm not asking you that.

13 A I'm---

14 Q The charge to transport one kilo of cocaine from
15 Colombia to the United States, by the Seal organiza-
16 tion, by the Reeves-Seal organization, by the Reeves-
17 Seal-Earl organization, whatever it was, by that
18 organization was \$3500; correct?

19 A That's what Mr. Reeves told me; yes, sir.

20 Q Okay. And you got some share of it.

21 A Yes, sir.

22 Q Mr. Reeves eventually was not in a position, you
23 told us that the partnership with Mr. Reeves terminat-
24 ed, I believe, in 1982. I think that was your testi-
25 money, sir. And there was a period of time where you

1 were operating without sharing your moneys with Mr.
2 Reeves; correct?

3 A That's correct.

4 Q When you were operating without sharing your
5 money with Mr. Reeves you were charging \$3500 a kilo?

6 A The prices varied; yes, sir; between--

7 Q Sometimes it went more.

8 A After Mr. Reeves was arrested, no, sir, it start-
9 ed to go down.

10 Q To what?

11 A I think the per-kilo price went down because of
12 the glut here, down to about--the last offer was 1500
13 a kilo.

14 Q Even 1500 a kilo and 200 kilos is \$300,000;
15 correct?

16 A That's correct.

17 Q So it would be safe to assume, would it not, that
18 this last smuggling venture near the end of '83 or
19 the beginning of '84 involved probably at least 200
20 kilos, and at a charge of no less than 1500 a kilo
21 would be a gross income to Barry Seal of \$300,000 for
22 that one trip; correct?

23 A That's correct.

24 Q Now, sir, if I may do a little arithmetic, I
25 think that you told us that you did about 25 separate

smuggling trips; correct?

A 25?

Q More or less.

A When did I say that?

Q In your direct testimony the other day.

A No, sir, I don't remember saying that.

Q Give us an idea, if you would, how many smuggling trips you did after Mr. Reeves went to jail.

A All of '81--I would say probably 50.

Q And of the 50 smuggling trips, sir, would they all be cocaine?

A Yes, sir.

Q And they all would be at least 200 kilos; correct?

A That's correct.

Q And would \$2500 be a fair average price per kilo?

A Correct.

Q So--I'm going to get lost with the zeros. It sounds to me like it's 10,000 kilos times \$2500; right?

A I don't know. I'm not a--

Q Well, we can always take a pencil and piece of paper and do it.

10,000 times 2500, huh?

MR. GREGORIE: Put 2500 down there and then

Seal - cross

439

1 add four zeros to the end of the 2500 and you'll come
2 out with the right figure.

3 BY MR. KRIEGER:

4 Q What's that number that begins with 25?

5 A 25 million.

6 Q That was your gross income.

7 A Approximately.

8 Q \$25 million. And the only asset that you have
9 turned over to the Government that represents those--
10 that gross figure is one airplane; correct?

11 A That's correct.

12 Q And that airplane has a value of?

13 A Approximately \$500,000.

14 Q So that leaves roughly \$24,500,000 left un-
15 accounted for. Take off some for salary and gas, and
16 there's a lot more money left lying around, isn't
17 there?

18 A (No response.)

19 Q Isn't there?

20 A I don't know.

21 Q It's your money, sir.

22 A None that I know of.

23 Q You spent it all?

24 A Every dime.

25 Q Gave it all away.

MARIO J. CONTILLO
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT
MIAMI, FLORIDA 33126

Seal - cross

440

1 A I didn't give it all away.

2 Q You have no assets left that represent \$25 million
3 in gross earnings. That's your testimony.

4 A No, sir. I didn't say that. You said that.

5 Q All right, you have assets left that reflect
6 portions of your gross earnings.

7 A Correct.

8 Q What are they? And I may as well advise you that--

9 MR. GREGORIE: Objection, Your Honor.

10 MR. KRIEGER: Mr. Gregorie is going to
11 testify--

12 MR. GREGORIE: No, I'm not going to testify,
13 I'm going to---

14 MR. KRIEGER: --advise the witness, Your
15 Honor.

16 MR. KRIEGER: I'm going to suggest to this
17 witness that this witness look at Exhibit 1-B in
18 evidence, which is the plea bargain, the memorandum
19 of agreement executed by you and Mr. Gregorie and
20 other representatives of the Government concerning
21 forfeiture of assets generated by or obtained through
22 drug trafficking.

23 BY MR. KRIEGER:

24 Q Tell us the assets, if you will.

25 A What I own?

MARIO J. CONTILLO
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT
MIAMI, FLORIDA 33128

Q Yep.

A My home, my cars, and some property. A couple
of airplanes, boat, helicopter. Specific item by
item?

Q By the way, you own that C-123, don't you?

A No.

Q You did own it.

A No, I never owned it.

Q Never owned it.

A No, sir.

Q Regardless of what you said on TV.

A I never said I owned it on TV, that I can recall.

Q All right. So you own airplanes, home, cars,
some property, interest in a mine.

A A mine?

Q In New Mexico.

A No, that was your former client.

Q Okay. The--what else do we have? Bank accounts?

A No, I don't have any other than the one at home
in my bank.

Q All right. And none of these assets generated
by and through this drug trafficking has been for-
feited; correct?

A None of the what?

Q The assets that you've just listed.

- 1 A The ones that I've listed haven't been forfeited?
- 2 Q That's right.
- 3 A No, they haven't.
- 4 Q And you don't expect them to be.
- 5 A I don't--Mr. Gregorie has just told you that they
- 6 could be.
- 7 Q I said sir, the question was, you do not expect
- 8 them to be.
- 9 A I don't know. I really don't.
- 10 They could be.
- 11 Q You hope that they're not.
- 12 A Well, certainly I hope they're not.
- 13 Q Okay. Give us, if you would, an approximate
- 14 value of the airplanes. I said that in plural, that
- 15 includes the helicopter.
- 16 A Say that again.
- 17 Q Give us the approximate value of the airplanes,
- 18 including the helicopters that we're talking about.
- 19 \$50,000, 100,000, two million?
- 20 A 350 to 400 thousand dollars.
- 21 Q Total for the airplanes?
- 22 A The airplanes and helicopters together, yes.
- 23 Q Just for the sake of the record, list them
- 24 quickly, if you would. How many and what they are.
- 25 A I have a Twin Beech, a 1946 D18 Twin Beech, a

1 1950-something helicopter, a 1950-something Convair
2 aircraft. I think that's it, two airplanes and one
3 helicopter. The other airplane crashed and was
4 destroyed.

5 Q Property.

6 A Property? My home, the lot next door in the
7 subdivision to my home, a landing strip and five or
8 six lots in an aviation subdivision in South Louisiana
9 and an office building and a lot next to it in Baton
10 Rouge.

11 Q Anything else?

12 A Propertywise?

13 Q Yes, sir. Any out of the country?

14 A Do I own property out of the country?

15 Q Yes, sir.

16 A No, sir.

17 Q Okay. Any other property?

18 A Not that I can recall right this minute.

19 Q Overall value, approximately?

20 A Approximately 800, maybe 900 thousand dollars,
21 real estate.

22 Q And the last general assets that you mentioned
23 were your cars, quote, unquote--roughly?

24 A Well, I don't know, cars depreciate so rapidly.
25 I would say it's approximately 24 or 30 thousand

1 dollars worth of auto mobiles.

2 Q Okay. Just again doing some easier quick arith-
3 metic, those assets total in excess of a million
4 dollars. Combined. 300,000 airplanes, 800 or 900
5 thousand, 25,000, it comes to roughly a million-two,
6 a million-three.

7 A Right.

8 Q Fair?

9 A I guess so.

10 Q All right. Let me go over to something else,
11 Mr. Seal. And I want to invite your attention to a
12 conversation that you had with Mr. Saunders on or
13 about February 21st, 1985. The tape was played, it
14 was a videotape.

15 A February?

16 Q 21st, 1985. Remember there were about four
17 meetings that were videotaped?

18 A Yes, sir.

19 Q And the next conversation that you had with Mr.
20 Saunders was on March 5th, 1985--again that was a
21 videotape.

22 A Yes, sir.

23 Q Remember?

24 A Yes, sir.

25 Q Now, needless to say, sir, you reviewed--I

1 shouldn't use the word "reviewed," but you saw those
2 tapes before you got on the witness stand.

3 A You made a statement.

4 Q It's a question.

5 A Oh, yes, sir, I did.

6 Q And you saw them more than once, didn't you?

7 A About twice; yes, sir.

8 Q You did review them, did you not, with either
9 agents or prosecutors, in order to prepare you for
10 the testimony that you gave here in this court.

11 A Yes, sir, that's correct.

12 Q And as--just so that everybody understands from
13 where I'm coming, no lawyer is going to put a witness
14 on the stand unless the lawyer has had an opportunity
15 to review the matter with the witness.

16 In your reviewing these tapes--and I'm talking
17 about these two in particular--you recognized, did
18 you not, that you were talking to Norman Saunders
19 about specific topics that you had been instructed to
20 cover; isn't that so?

21 A (No response.)

22 Q If you don't recall, I'll tell you exactly where
23 I'm going.

24 A Okay.

25 Q The February 21st videotape starts, in effect,

APPENDIX 4.—PRESS RELEASE FROM DRUG ENFORCEMENT
ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE



U.S. Department of Justice

Drug Enforcement Administration

Washington, D.C. 20537

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 9, 1987

DEA

An international marijuana and cocaine cartel, responsible for smuggling multi-ton quantities of the drugs into the United States, has been successfully penetrated and immobilized by agents of the Drug Enforcement Administration (DEA), Attorney General Edwin Meese III announced today.

Code-named "Operation Intruder," the 12-month investigation was climaxed Tuesday with the last of 29 arrests in five cities, seizure of more than 70 tons of marijuana and more nearly one ton of cocaine, and the confiscation of cash and property worth millions.

Mr. Meese, speaking at a press conference at the Justice Department, said more than three dozen other Federal, state and local law enforcement agencies assisted in the investigation and arrests. Mr. Meese also praised authorities in Panama and Colombia for key cooperation. "Operation Intruder" functioned under the auspices of the Attorney General's Organized Crime Drug Enforcement Task Force program. Other participating Federal agencies were the U.S. Customs Service, the Federal Bureau of Investigation and the Immigration and Naturalization Service.

-more-

-2-

The Colombian-based trafficking organization, which was penetrated and compromised by DEA agents working undercover, has been operating for at least 10 years, according to DEA Administrator John C. Lawn. He said two Colombians allegedly in the cartel, Gustavo de la Vega of Cartagena and Joaquin Solano of Santa Marta, have been arrested by DEA in Miami.

Meese described as "outstanding" the cooperation among law enforcement agencies in carrying out the sensitive investigation. The Attorney General called "Operation Intruder" one of the most successful "reverse undercover" investigations in the history of narcotics law enforcement.

Administrator Lawn said that DEA agents posed as drug transporters, off-loaders, warehousers and distributors. In that reverse undercover role, they successfully "smuggled" into this country in a single operation financed by the traffickers 128,500 pounds of Colombian marijuana. As the case climaxed, agents seized another 22,000 pounds of marijuana and 1,300 pounds of cocaine.

Operation Intruder originated in DEA's Houston Field Division in August 1986, when undercover agents from the McAllen District Office began negotiations for delivery of the marijuana. These negotiations, which ran over many weeks, took place with

-more-

-3-

traffickers in Atlanta, Georgia; Detroit, Michigan; Denver, Colorado and West Palm Beach, Florida, as well as in Texas and Colombia, Lawn said.

The DEA Administrator described operational methods of "Intruder" as follows:

Traffickers in Colombia and the U. S. offered DEA undercover agents fees well in excess of \$2 million to provide a full range of services in getting the marijuana from Colombia to the U.S., getting it off a leased ocean-going ship into warehouses rented in Texas, then redistributing the marijuana to trafficker/buyers in Atlanta, Detroit, Denver and West Palm Beach.

DEA performed these services in cooperation with other agencies, then seized the drugs at their final destination and arrested the traffickers.

The ship used to transport the marijuana was leased by the cartel earlier this year. It sailed to the northern coast of Colombia, with an all-trafficker crew, in late July, and was loaded with 128,500 pounds.

The vessel left Colombia and sailed to islands in the Western Caribbean where it was met by a fresh crew that consisted, unknown to the traffickers, of DEA agents. DEA then

-more-

-4-

sailed the ship to Port Isabel, Texas, where the agents unloaded the marijuana on August 5 and stored it in warehouses already rented.

Negotiations between the agents and trafficker/buyers ran over the next three weeks. Loads of varying sizes, based on the negotiations, then were shipped by leased tractor-trailers (driven by undercover agents) and delivered for local resale. For example, 50,000 - plus pounds were trucked to Atlanta; another 50,000 pounds to Denver and 15,500 pounds to West Palm Beach.

In another phase of the investigation, traffickers based in Detroit flew an airplane from Miami to Colombia and then to Detroit early on September 3 with another 18,000 pounds of marijuana and 1,300 pounds of cocaine. DEA agents, again working undercover, unloaded the drugs, stored them in a Detroit area warehouse and seized them at the same time they arrested nine defendants in that city. The defendants planned to transport the cocaine to New York City.

All of the marijuana delivered to the other cities also was seized, as were another 13,000 pounds still under guard in the warehouse in Port Isabel.

Lawn said that among the other defendants arrested were Justin "Doc" Adams, 32, of Denver, identified as the primary broker for the Denver and Atlanta negotiations, and Alejandro Cerna, 42, of Boca Raton, Florida, identified as the key to the trafficking negotiations in Detroit and West Palm Beach.

00000

○

